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MEETING NOTICE

Policy and Advocacy Committee July 11, 2008

Woodfin Suites 5800 Shellmound Emeryville, CA 94608 (510) 601-5880

10:00 a.m. – 3:00 p.m.

- I. Introductions
- II. Review and Approval of the April 11, 2008 Policy and Advocacy Committee Meeting Minutes
- III. Review and Possible Action to Recommend Revisions to the Board's Disciplinary Guidelines
- IV. Discussion and Possible Action Regarding Assembly Bill 239 Relating to Alcoholism and Drug Abuse Counselors
- V. Discussion and Possible Action Regarding Permissible Work Settings for Marriage and Family Therapist Trainees
- VI. Discussion and Possible Action Regarding the Mandatory Submission of Fingerprints for Board Licensees and Registrants
- VII. Discussion and Possible Action Regarding Draft Regulations Implementing Mandatory Continuing Education for Licensed Educational Psychologists
- VIII. Update on Board Actions, Proposed Legislation, and Proposed Regulations Regarding Acceptance of Degrees Granted by Institutions Approved by the Bureau for Private Postsecondary and Vocational Education
- IX. Legislative Update
- X. Rulemaking Update
- XI. Suggestions for Future Agenda Items
- XII. Public Comment for Items Not on the Agenda



Arnold Schwarzenegger Governor State of California State and Consumer Services Agency Department of

Consumer Affairs

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov

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Arnold Schwarzenegger, Governor State of California State and Consumer Services Agency Department of Consumer Affairs

DRAFT MEETING MINUTES

Policy and Advocacy Committee April 11, 2008

Phillips Graduate Institute 5445 Balboa Blvd, Room 118 Encino, CA 91316

Committee Members Present:

Gordonna DiGiorgio, Chair, Public Member Renee Lonner, LCSW Member Karen Roye, Public Member Dr. Ian Russ, MFT Member

Staff Present:

Paul Riches, Executive Officer Mona Maggio, Assistant Executive Officer Tracy Rhine, Legislative Analyst Sean O'Connor, Outreach Coordinator Kristy Schieldge, Staff Counsel

Committee Members Absent:

None

Guest List:

On File

Gordonna DiGiorgio, Policy and Advocacy Committee (Committee) Chair, called the meeting to order at 10:00 a.m. Mona Maggio called roll, and a quorum was established.

I. Introductions

Guests in the audience introduced themselves.

II. Review and Approval of the January 18, 2008 Policy and Advocacy Committee Meeting Minutes

Ian Russ referred to the first bullet at the bottom of page two, questioned if a general education degree (GED) was supposed to be listed along with a high school diploma, or if it was discussed at all. If GED was not discussed or mentioned in the list of qualifications, it should be added to the qualifications.

Clarification was made to the first sentence on 2nd to last paragraph on page 3. The sentence should read: There are a small number of alcohol and drug counselors who have masters level degrees.

On the last paragraph of page 5, the first sentence should read: Mr. Guerrero replied that the big difference is the question of money.

Kristy Schieldge referred to page 10, 5th paragraph from the bottom. The paragraph should read: Ms. Schieldge stated that regulation or clarification in statues is necessary only when it is not a commonly understood term. If there is no confusion in the profession as to what private practice means, or if it is capable of being understood by referring to the definition in the dictionary, usually the Legislature does not define it.

Renee Lonner moved to approve the minutes as amended. Karen Roye seconded. The Committee voted unanimously (4-0) to pass the motion.

III. Presentation by Bobby Pena of BP Cubed Regarding Additions to the Board's Website

Bobby Pena presented additions to the Board's website which includes a new package of web pages titled Career Connect. Mr. Pena described Career Connect as a "one stop shop" for registrants, students, and anyone interested in pursuing a career in the mental health professions licensed by the Board. Career Connect will provide information relating to the licensing processes, employment listings, and financial aid programs available to mental health professionals. Career Connect will require partnerships with various professional organizations and governmental entities. Rather than create and maintain its own database of employment listings, the Board can provide links to employment listings made available by professional organizations and governmental entities.

Other features include videos based on frequently asked questions and answers. The videos are near completion. An outreach presentation was recently filmed and will be accessible online.

BP Cubed is currently working on other pieces for consumers, providing information on how to choose a mental health professional and important questions to ask. BP Cubed is working on public service announcements (PSA). The goal of the PSA is to reduce stigmas related to the mental health care and how to access care.

Ms. DiGiorgio asked if there is going to be information provided to distinguish the difference between marriage and family therapists (MFT), licensed clinical social workers (LCSW), and licensed educational psychologists (LEP), and information for the consumer to determine what type of therapist to seek. Sean O'Connor responded that some of those components would be built in; however, staff wants to avoid providing information that suggests seeking particular types of therapy based on particular issues or needs. The goal is to provide general information regarding the differences between the mental health professions licensed by the Board and where they perform services.

Ms. Roye asked: 1) Which audiences are targeted through the PSAs? 2) Will BP Cubed ensure that they reach diverse communities and cultures? 3) What information will be provided through the PSAs? Mr. Pena responded that BP Cubed and board staff are in the early stages of development. The PSA will start out general, and over time, will become more specific. BP Cubed has conducted informal focus groups with some licensees. Issues came up relating to the aging population, to specific ethnicities and sensitivities, and stigmas. The long-term goal is to aim at specific communities; but initially the focus will be generally broad, specifically breaking down negative stigmas, life changes and situations.

Dr. Russ stated that he wants input from the professional organizations regarding the PSAs and Board approval before the PSAs are released. Mr. Pena agreed, and emphasized that BP Cubed is in the infant stages of development and is determining messages to convey to the public, not scripts, at this time. Mr. Pena assured that the plan includes licensee input and Board approval.

Dr. Russ wants to ensure that these projects are within the purview of the Board, which is public protection. He stated that he is supportive of including references of the professional organizations, but questioned if it is a legal conflict to use public sources to refer to other entities. Mr. Riches stated that our website has many referrals to other websites already. There is consistent messaging with efforts from the Department of Consumer Affairs (Department). The Department identified that there is not enough awareness amongst the public regarding the existence of other regulatory boards and their roles.

Ms. Schieldge stated that this raised issues with her. She explained that the Board needs to make sure that it is careful to avoid the appearance of endorsing or promoting a private entity, because the government agencies are not supposed to do that. The Board must take steps to ensure that the Board is not promoting a private party's business on its website. The Board must be very competent in who it is linking to on the website, because the Board has no control over the content on other websites. There may be ways to handle that by working out web link indemnity agreements with whoever the Board is linking to, or using disclaimers.

Janlee Wong, Executive Director of the National Association of Social Workers (NASW) California Division, stated that one of the BBS goals is to promote good practice and to promote good ethical practitioners. When talking about practice and ethics, people need to speak to a qualified professional. Each professional association has their own code of ethics. The best source that can interpret the code of ethics is the professional organization. If callers are asking about ethics, it is best to help them find those resources instead of telling them that you do not have that information. Providing resources helps practitioners to be good practitioners.

Mr. Riches responded that those referrals are made daily. He added that PSAs provide opportunities to get some of the messages out inexpensively and effectively.

Ms. Roye requested that the PSA come to the Board as a separate item for discussion so the Board can think about what a PSA would look like and determine if it is targeting certain professionals or clients.

Olivia Loewy, Executive Director of the American Association for Marriage and Family Therapy (AAMFT) California Division, stated that the Career Connect is a needed project especially by the public mental health sector where there is a workforce shortage. It may be a challenge to keep it updated. She hopes that the website will post paid intern positions as well as regular placements. Ms. Loewy stated that AAMFT California Division will do what it can to assist BBS with information on an ongoing basis.

Dr. Russ asked what BP Cubed and staff had in mind regarding how to choose a therapist. Mr. Riches responded that information would be provided on how to find out if a therapist is licensed and if there is a disciplinary history, the types of professionals available, and places to get referrals.

IV. Presentation by Kathy Sniffen Regarding Gerontological Workforce Issues and Assembly Bill 2543

Kathy Sniffen was scheduled make a presentation on gerontological workforce issues. However, she was not able to attend.

Tracy Rhine reported on AB 2543, the Geriatric and Gerontology Workforce Expansion Act of 2008. This bill primarily establishes two loan assistance programs.

The first piece of the bill establishes the California Geriatric Social Worker and Marriage and Family Therapist Loan Assistance Program. BBS licensees would pay a \$10 fee upon licensure and renewal towards fund. This program would be administered through Office of Statewide Health Planning and Development (OSHPD). It provides loan repayment for recipients that contract to work 3 years of service in an "eligible geriatric setting." The bill does not specify an eligible geriatric setting, and may need to be defined.

MFTs, LCSW, and associate social workers (ASW) would be eligible for \$7,500 in loan repayment if they provide one year of service in an eligible setting, \$17,000 if they provide two consecutive years of service, or \$30,00 if they provide four consecutive years of service.

One issue with the program is that it does not include MFT interns. Ms. Rhine believes that it will be amended to include MFT interns.

The second piece of the bill establishes the California Geriatric and Gerontology Student Loan Assistance Program for students enrolled in school and contract to work in eligible settings after graduation. There is no funding in the bill for this program. The students are given a warrant if they decide to work in the eligible settings. It is not clear how this will work, or how and when the warrants can be used.

Ms. Rhine outlined the issues of the bill:

- MFT interns are not included.
- The loan assistance program makes reference to health profession and social work profession instead of mental health profession. That may be worked out, but it should be addressed.
- The program awards are not specifically proportionate to the funds paid by the licensees. Money needs to be proportionate the amount paid in.
- Funds would be held within an account in the Board's fund. The account should be in OSHPD's fund.
- There is not a specific implementation date for the Board to begin receiving the surcharge from licensees. Staff expects it would be upon implementation of the bill, which is January 1, 2009. Staff would like to see an extension of time for implementation.
- This creates two very similar programs that essentially target the same population.
 The first program targets new professionals. The second program is intended to
 target students, but since it is a loan assistance program and loans are not paid
 back until after graduation, the same population of folks is targeted.

Mr. Wong stated that currently there is no specially trained workforce to work with the geriatric population. Social work has recognized this problem at least two decades ago, and has sought out special funding to train social workers to work with the elderly and the

disabled. There are programs at universities to train social workers to work with the geriatric population. Mr. Wong explained that originally, the bill did not include MFTs. MFTs were going to oppose the bill unless they were included. Therefore, there are a lot of problems with the language because it was put in at the last moment. Before the MFTs were added, the intent was to only collect the surcharge from LCSW license renewals. NASW strongly disagrees that MFTs are the same as LCSWs, and that MFT interns and ASWs do the same thing. It is increasingly difficult to include MFTs in the bill because the practice settings are not the same, MFT education and social work education are not the same, and the social work education programs that have special geriatric training is very different. NASW does not agree with the language in the bill.

Dr. Russ expressed that he does not believe that MFTs and social workers are the same. They are different orientations, and they have different philosophical bases. That is not to say that MFTs could not be very effective in treating the elderly. Dr. Russ stated that he does not want two different programs targeting the same population. It needs to be one program and amendments before it comes back to the Board.

Ms. DiGiorgio suggested fixing the language so that it's specific and not duplicative. Dr. Russ added that it should be amended to ensure that funds are properly placed.

Mr. Wong suggested an amendment to the current loan repayment program to add an additional \$10 for the gerontology program to the current fund program. This would reduce wasted overhead.

Mr. Riches agreed that this could be a much simpler bill and a simpler process. Dr. Russ also agreed, stating the there is already a mechanism in place.

lan Russ moved to support the bill if amended to create a legislative proposal establishing a separate \$10 surcharge directed through the current loan forgiveness program, and modifying the current loan forgiveness program to include gerontology. Renee seconded. The Committee voted unanimously (4-0) to pass the motion.

V. Review and Possible Action to Recommend Positions on Current Legislation

Ms. Rhine reported on current legislation.

AB 164, sponsored by California Association of Marriage and Family Therapy (CAMFT), provides a qualified immunity for persons who communicate with a marriage and family therapy school, when the communication is intended to aid in the evaluation of the qualifications, fitness, character or insurability of the healing arts practitioner.

Gordonna DiGiorgio moved to support AB 164. Ian Russ seconded. The Committee voted unanimously (4-0) to pass the motion.

AB 1486, sponsored by California Coalition for Counselor Licensure, the Board previously took a position to support the bill. The issue is that SB 1218 is Board-sponsored legislation, which changes curriculum requirements for MFTs. Staff suggested that Licensed Professional Counselors (LPC) make their practice act consistent with the changes that Board is implementing for MFTs. Staff recommended changes to the educational requirements and supervised experience for LPCs. The sponsor and author are working on amendments to these items.

lan Russ moved to support the bill as amended to include staff's recommended amendments. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass the motion.

AB 1887, sponsored by Assembly Member Beall, the Board previously took a position of support on AB 423 last year, which is essentially identical to this bill. Requires health care service plan contracts and disability insurance policies, which cover hospital, medical, or surgical benefits to provide coverage, to also provide coverage diagnosis and treatment of severe mental illnesses. This bill defines mental illness as a mental disorder defined in the Diagnostic and Statistical Manual IV (DSM-IV).

lan Russ moved to support AB 1887. Karen Roye seconded. The Committee voted unanimously (4-0) to pass the motion.

AB 1922, sponsored by CAMFT, adds MFTs to the list of healing arts practitioners defined as "licentiates" under peer review statutes relating to notice of final proposed action. Ms. Rhine explained that MFTs are part of the peer review process established in California. They were added in that process in 1999. However, MFTs were not added to Business and Professions Code Section 809.

Gordonna DiGiorgio moved to support AB 1922. Ian Russ seconded. The Committee voted unanimously (4-0) to pass the motion.

AB 1925, introduced by Assembly Member Eng, was amended on April 7th. The analysis was written on before it was amended; however, the amendments were technical. This bill allows the Franchise Tax Board to suspend the professional or occupational license of a licensee with outstanding tax liabilities.

Mr. Riches stated that staff recommends an oppose position unless amended. The proposal is not parallel with the guidelines set for the family support system. Staff suggested amending the bill to be modeled after the family support system, and the Board would have the final say in refusing to issue, reinstate, reactivate, or renew or suspend a license based on notification.

Renee Lonner moved to support AB 1925 if amended. Ian Russ seconded. The Committee voted unanimously (4-0) to pass the motion.

AB 1951, Suicide Prevention Training, introduced by Assembly Member Hayashi. Ms. Lonner stated that this is very important, however, there are already a number of specific areas of training that is mandated. This is already included in the curriculum.

Dr. Russ stated that he would not have an objection if this were presented as a continuing education course. This is already in the curriculum. Dr. Russ stated that he is against the bill, and added that there is no indication that suicides are a result of incompetent therapy.

Mr. Wong stated that whatever position is taken, that the Committee encourages and supports further continuing education within this area.

Dr. Russ suggested opposing the bill, but supporting ongoing continuing education on suicide prevention.

Mr. Riches explained that there are a variety of issues that clinicians face, including additional training and a lot of it is dependent on their practice environment and population. One of those is suicide in many populations. Mandating this for everyone may have the consequence of pushing somebody out of training that may need it more significantly.

Renee Lonner moved to oppose AB 1951. Donna DiGiorgio seconded. The Committee voted unanimously (4-0) to pass the motion.

The Committee adjourned for lunch at 12:10 p.m. and reconvened at 1:10 p.m.

AB 2652, sponsored by CAMFT, allows licensure requirements for mental health practitioners employed with the state correctional system to be waived for a person to gain qualifying experience for licensure as a marriage and family therapist.

lan Russ moved to support AB 2652. Renee Lonner seconded. The Committee voted unanimously (4-0) to pass the motion.

SB 1402, introduced by Senator Corbett, was amended on April 1st. The analysis was written on before it was amended. This bill requires all entities under the Department of Consumer Affairs (DCA) to post on its websites information regarding misdemeanor convictions that result in disciplinary actions, accusations that are not subsequently withdrawn or dismissed, or any felony convictions that are reported to DCA entities that is reported by the courts.

Currently the Board already posts information on the website regarding disciplinary actions taken against licensees and accusations. This bill would require the Board to post felony convictions.

Issues are:

- The Board does not receive many court documents on convictions.
- The intent or purpose of posting this information is not clear. If the Board has not taken disciplinary action, it brings to question whether that conviction is relevant.
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- Ms. Schieldge explained that it must be substantially related to the profession in order for the Board to take action.

Ms. Rhine stated that the intent was focused on the Board of Chiropractic Examiners; however, all of the boards under DCA were included in this provision. Staff suggested deleting the provisions relating to posting criminal convictions on the Board's website.

lan Russ moved to oppose unless amended to remove the provision that relates to felony convictions. Karen Roye seconded. The Committee voted unanimously (4-0) to pass the motion.

SB 1415, introduced by Senator Kuehl, was amended on April 10th. The bill originally required health care providers to retain patient records for a minimum of 10 years from the date of their most recent use. The bill now states that each licensee must have a retention schedule and must obtain consent from the client for that retention schedule.

Mr. Riches stated there is an issue of uniformity, and this bill would allow a different retention schedule for every practitioner.

Ms. Rhine stated that the bill was not available in print, and has not seen what the bill looks like. Mr. Riches suggested bringing this back to the Board at its May meeting.

VI. Review and Possible Action to Recommend Revisions to the Board's Disciplinary Guidelines

Ms. Maggio reported that the Board adopted Disciplinary Guidelines in 1997. The most recent revision was in May 2004. Board staff, Deputy Attorneys General, Administrative Law Judges, licensees, and attorneys to assist in determining the appropriate penalties in the disciplinary process utilize the Disciplinary Guidelines. At the July 2007 Consumer Protection Committee Meeting, Judy Johnson and Victor Perez volunteered to review the current Disciplinary Guidelines and determine if the recommended penalties are appropriate for the violations and to suggest revisions where necessary. Ms. Johnson could not attend the Committee meeting to discuss this, nor has she had the opportunity to provide written suggestions to revisions. However, the Board's enforcement unit provided suggested revisions. Some of the edits are a result of the changes to the LEP law.

This item was tabled to next meeting to allow Judy Johnson and Victor Perez an opportunity to provide their comments to suggested revisions.

There were no public comments.

VII. Review and Possible Action to Recommend Amendments to California Code of Regulations Title 16, Section 1811 Related to Advertising

This item was omitted.

VIII. Review and Possible Action to Recommend Clarifications to Existing Unprofessional Conduct Statutes

Ms. Rhine reported that staff has discovered several provisions to consider amending to add clarity for both consumers and licensees. Issues and recommendations are:

- The Educational Psychologist Practice Act does not include failure to comply with BPC section 2290.5 as unprofessional conduct for LEPs. Staff recommends that the BPC section 4989.54 be amended to include the language to create consistency with all Board licensees regarding statutes relating to telemedicine.
- BPC section 123 makes it is a misdemeanor for any person to engage in any
 conduct which subverts or attempts to subvert any licensing examination or the
 administration of an examination. Staff recommends adding a provision to the
 unprofessional conduct statutes of each of the practice acts specifying that the acts
 contained in BPC section 123 represent unprofessional conduct, and are cause for
 disciplinary action by the Board.
- The unprofessional conduct statutes for all three licensing categories under the jurisdiction of the Board contain provisions stipulating that the Board may deny a license or may suspend or revoke a license of a licensee if he or she has been guilty of unprofessional conduct. The first issue is that the language contained in the LEP unprofessional conduct statutes breaks up one subdivision into two separate subdivisions, and is confusing. The second issue is a problem of inconsistency within the unprofessional conduct provisions of all Board licensees. Staff

recommends that the unprofessional conduct provisions for all licensing categories are amended to make them comprehensible and consistent.

Gordonna DiGiorgio moved to recommend to the Board to sponsor legislation to amend these sections of law. Ian Russ seconded. The Committee voted unanimously (4-0) to pass the motion.

IX. Discussion Regarding Draft Study Guides

Mr. O'Connor reported that staff has been working with Office of Examination Resources (OER) and subject matter experts (SME) on draft study guides for MFTs and LCSWs. The study guides offer guidance and tips on taking the examination. It includes administrative information for the exam candidate as well as a very limited number of examination questions and exam content outline. These study guides will provide information in addition to what is currently offered in the Examination Candidate Handbooks. MFT and LCSW SMEs reviewed and commented on prior versions of these draft study guides. The OER provided the sample questions included in the study guides.

Mr. Wong requested more time to allow for professionals to look at the drafts. Mr. Riches stated that he invites comments before the next Board meeting so that there is no delay in getting the study guides approved and released.

X. Review and Discussion Regarding Draft Supervision Course Outline

Ms. Maggio reported that this is one of the strategic plan objectives to increase the quality of supervision. To begin the discussion on this issue, staff sought the assistance from licensees who have experience in providing clinical supervision to interns and associates. The Supervision Workgroup was formed with the guidance of Board member, Joan Walmsley, LCSW, Gary Henderson, MFT and Michael Brooks, LCSW. Ms. Walmsley provides supervision for the Irvine School District, Mr. Henderson provides supervision in a private practice setting and conducts supervision courses to supervisors who work in a variety of employment settings. Mr. Brooks is a member of the American Board of Examiners in Clinical Social Work.

Initially, the Workgroup and licensing staff began discussions with the idea of developing guidelines to assist supervisees in selecting a supervisor, and expectations from the supervisory experience. However, further discussions led the creation of a draft curriculum for training supervisors.

Mr. Henderson conducted two supervision workshops. Board staff attended one of the sessions, which provided them an opportunity to share issues and a sampling of questions that they receive from both supervisors and supervisees.

This was brought forward to the Board at its February 2008 meeting. There were a lot of questions and concerns about how this was going to be used. There was a request to obtain additional input from stakeholders. The Board directed staff to take this matter back to the Policy and Advocacy Committee for additional discussion and input from stakeholders.

Ms. Maggio outlined points for discussion:

• Should the elements of this course be added to the current statutes and regulations that define supervision?

- Should the Board consider defining a basic supervision course and should elements beyond that be defined as an advanced supervision course?
- Should the workgroup and staff recast back to the original idea of creating expectations of a supervisory experience for supervisees?
- Create a uniform curriculum written to cover both professions?
- Standardize the supervision course hourly requirement?

Ms. DiGiorgio stated that she initially thought this was going to be a written guide of what to expect from a supervisor and what a supervisor can expect from those they supervise. She does not want to revisit the issue of mandating curriculum.

Dr. Russ recalled the professional organizations felt that they were not aware of this. He also questioned if this is done, would it be considered underground regulation. Is this a standard or an informational piece? If so, do we need to include more professionals from agencies?

Mr. Riches stated that the Committee needs to decide what form to present this information and determine if anything in the guideline is wrong. What is the irreducible minimum? What should take place in a supervised learning process?

Ms. Roye suggested something less structured but informational for the student. She stated that the goal should be to help facilitate better and effective communication between the student and the supervisor.

Mr. Riches stated that whatever is offered needs to be helpful. The calls fielded by staff are folks stating that there is not enough concrete information. Staff's intent was to provide something useful. There seems to be a demand for something more concrete, not necessarily prescriptive.

Ms. Maggio added that this is not only for the supervisees to know what to expect from their supervisors, but also for the supervisor to know what is expected of them.

Dr. Russ expressed support for this and suggested taking this to coalitions where there are supervisors and getting feedback. He also requested feedback from the professional organizations. CAMFT has a supervision training program. NASW may also have a program.

Ms. Roye expressed that she doesn't want this to be so structured that there may be some resistance.

Dr. Russ stated he does not want to create fear in supervisors because the Board is telling them to complete this requirement. Mr. Riches stated that a lot of feedback is that they are afraid to be supervisors because they do not know what to do and do not understand the expectations. Mr. Riches stated that we could put this out to the professional organizations and consortiums.

A guest in the audience who provides supervision and trains supervisors and supervisees, commented that after 6 years, she does not know if the licensed staff have issues with their clinical skill and applying their clinical skill in a supervisory role as much as they have concern and confusion over the bureaucratic, micromanagement feeling over everything

they do that is supposed to be a dynamic learning experience. When looking at the curriculum presented, her agency comes very close to it. People now have the mandates, such as the supervision requirement. She stated that licensees in the field are not coming to the table because of this. She conducts orientations similar to what Mr. O'Connor does, and gets the same people asking the same questions. Regardless how much you reiterate, there will be a population that will refuse to take responsibility for what they are mandated to learn. What the Board has done to date is more than sufficient.

Mr. Riches responded that this is not a question of clinical competency. It's about a learning process, and it's very different when one teaches it. Some people need a lot of assistance, and other do not need it. This also gives the opportunity to those who have not taught. This is not proposed to be a bureaucratic mandate. It is only guidance; it's not statute or regulation.

Ms. Roye stated that if this is put out, there is going to be an expectation. The way it is written, it states, "the supervisor should...". It should be written more gently.

Ms. Lonner asked if that is a worse argument than going through the schooling, putting in the required time, going into the exam unprepared and failing exam, and then having to pay back a fortune in school loans.

A guest in the audience stated that it is difficult to explain what a supervisory relationship is until one has been in it for a while, and is not sure how the Board will provide a fact sheet that will answer those questions. The callers that are contacting the Board and are confused about supervision have to go through that process. She further explained that by the time the students are entering the licensure process, if they do not have an idea about what supervision is, that is a problem. They have already been doing clinical work for nearly two years and have been receiving supervision. Why don't they understand what supervision is? A lot of this falls on the schools and the degree program. The guest added that the Committee is trying to educate interns about supervision and trying to clarify for supervisors, and those are two completely different issues. It would be helpful to separate those issues. Having some concrete information for the supervisors would be helpful, because a lot of supervisors are uneducated about what it is to be a supervisor. If the Board writes something very broad, it's going to be of no use to anyone. If the Board writes something specific, there are different disciplines and job duties. Supervision has to be adjusted based on who is supervised, the discipline, and the environment. This is very complicated.

Mr. Riches responded that there are people who have been through supervision, have become licensed, and do not understand what supervision is about. Nothing was addressed in the guidelines regarding the nature of the interpersonal connection. This was focused on the learning process.

Ms. Lonner stated that this is conceptual. It is not overly specific.

Another guest in the audience expressed concerned regarding the word "guideline." Mr. Riches stated that the workgroup is more concerned over the content regardless of what it is called, and requested the stakeholders to assist in providing language to fit the intent.

Ms. Loewy expressed that a lot of what is included in the draft supervision course outline is very good.

Jose Luis Flores from Phillips Graduate Institute stated that when he sees this outline, he sees it pertaining more towards post-degree supervisees. There is a need to empower them to get the supervision they need, and that is not here. Mr. Riches responded that there is brochure that addresses this.

Another guest in the audience stated that anything that can be provided to students would be helpful.

Mr. Wong urged the Committee to base their policy decisions on data analysis and evidence, and to conduct a survey and get some input from people rather than base this on anecdotal phone calls.

Dr. Russ suggested the following language: Here are some important issues to think about for supervisors and supervisees. These are not regulations or rules, but only talking points to inspire conversation among institutions, supervisors, students, and other interested parties.

Mr. Riches stated that this will be taken back to the workgroup.

Mr. Flores suggested at the end of the language, to encourage supervisees to look at the Supervisory Statement form and the brochure.

XI. Review and Possible Action Regarding Supervisory Plans

Mr. Riches stated that the Committee is looking for ways to improve to the existing supervisory plan requirement that is in law for clinical social work. Ms. Maggio asked for input to be sent directly to her.

XII. Legislative Update

Ms. Rhine reported briefly on four bills.

AB 1897 allows the Board to accept degrees from schools accredited by regional accrediting bodies that are equivalent to Western Association of Schools and Colleges (WASC) for MFT Intern registration or for MFT licensure. This bill also allows the Board to accept degrees from BPPVE recognized schools through 2011. The bill will be heard in Assembly Appropriations Committee on April 16th.

SB 1218 makes a number of changes relating to the education requirements of MFTs.

SB 1505 is in the Senate Business, Professions and Economic Development Committee to be heard on April 28th. This bill will increase funds directed into the Mental Health Services Provider Education Program by increasing the surcharge on MFT and LCSW licensure renewal. This bill will increase the funds directed into the program from \$10 to \$30. However, SB 1505 directs the Board to also decrease the overall license renewal fee by the same amount –\$20 – and thereby no actual fee increase will be charged to the licensee.

The Omnibus Senate Business, Professions, and Economic Development Bill, has not been introduced yet. It has been assigned bill number SB 1779.

The remainder of the bills is not active or moving. These bills are being monitored.

XIII. Rulemaking Update

Ms. Rhine reported on three regulatory proposals that took effect this year:

- Title 16, CCR Sections 1833.1 and 1870, Supervisor Qualifications
- Title 16, CCR Sections 1816.7, 1887.7, 1887.75, and 1887.77, Delinquency Fees for Continuing Education Providers
- Title 16, CCR, Sections 1887.2(a) and 1887.3(a), Continuing Education Self-Study

Ms. Rhine reported on three regulatory proposals that will be pursued in the near future:

- Title 16, CCR Section 1887.2 Exceptions to Continuing Education Requirements
- Title 16, CCR Sections 1887, 1887.2, 1887.3, and 1887.7, Minor Clean-Up of Continuing Education Regulations
- Title 16, CCR Section 1870, Two-Year Practice Requirement for Supervisors of Associate Clinical Social Workers

XIV. Suggestions for Future Agenda Items

No suggestions received.

XV. Public Comment for Items Not on the Agenda

No public comments received.

The meeting was adjourned at 2:40 p.m.







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To: Policy and Advocacy Committee Members Date: July 1, 2008

From: Mona Maggio Telephone: (916) 574-7841

Assistant Executive Officer

Subject: Review and Possible Action to Recommend Revisions to the Board's

Disciplinary Guidelines

Overview

The Board of Behavioral Sciences is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. One of the Board's highest priorities is to protect consumers by employing its authority to investigate complaints and take disciplinary action against licensees, registrants and applicants for licensure who endanger the health and safety of the consumer.

Business and Professions Code Sections 4982, 4989.54, and 4992.3 specify the grounds for which the Board may discipline a Marriage and Family Therapist, Licensed Clinical Social Worker, Licensed Educational Psychologist, Registered Marriage and Family Therapist Intern, and Associate Clinical Social Worker.

The Board's Disciplinary Guidelines are utilized by Board staff, Deputy Attorneys General, Administrative Law Judges, licensees and attorneys to assist in determining the penalties in the disciplinary process against Marriage and Family Therapists, Licensed Clinical Social Workers, Licensed Educational Psychologists, Registered Marriage and Family Therapist Interns, and Associate Clinical Social Workers.

The Disciplinary Guidelines indicate the minimum and maximum discipline that may be imposed for each violation of the Board's laws and regulations. The Disciplinary Guidelines also contain standard and optional terms and conditions that may be imposed if the respondent is placed on probation. "Standard" terms and conditions of probation are applied in all settlements where a period of probation is granted. The "optional" terms and conditions of probation are incorporated in the settlement based on the circumstances specific to the case.

The Board's Disciplinary Guidelines are incorporated by reference in California Code of Regulations, Division 18, Title 16, Section 1888. The Board adopted Disciplinary Guidelines in 1997. The most recent revision was in May 2004.

At the July 2007 Consumer Protection Committee Meeting, Judy Johnson and Victor Perez volunteered to review the current Disciplinary Guidelines and determine if the recommended penalties are appropriate

for the violations and to suggest revisions where necessary. Their recommendations are incorporated in the revised copy.

With recent changes to the Board's statutes and regulations staff revisited the 2004 Disciplinary Guidelines and provided suggested revisions. Revisions from the Enforcement Analysts' are noted in the attached Disciplinary Guidelines. Proposed additions are provided in blue underlined text and suggested deletions are identified in red strikeout text.

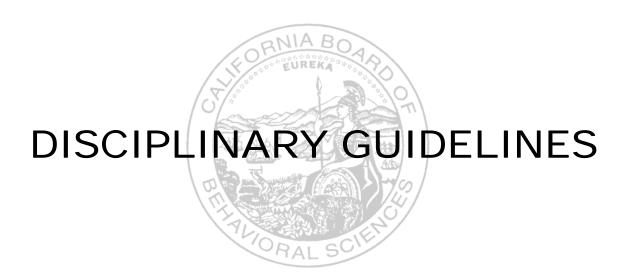
Requested Action

Please provide comments and suggestions on this issue, direct staff to finalize revisions and make recommendation to the Board to begin the regulatory process to amend California Code of Regulations, Division 18, Title 16, Section 1888.

Attachment:

Disciplinary Guidelines (revised May 21, 2004)

State of California Department of Consumer Affairs Board of Behavioral Sciences



Revised: May 21, 2004

INTRODUCTION

The Board of Behavioral Sciences (hereinafter "the Board") is a consumer protection agency with the primary mission of protecting consumers by establishing and maintaining standards for competent and ethical behavior by the professionals under its jurisdiction. In keeping with its mandate, the Board has adopted the following recommended guidelines for the intended use of those involved in the disciplinary process: Administrative Law Judges, licensees respondents and attorneys involved in the discipline process, as well as Board members who review proposed decisions and stipulations and make final decisions.

These guidelines consist of two parts: an identification of the types of violations and range of penalties, for which discipline may be imposed (Penalty Guidelines); and model language for proposed terms and conditions of probation (Model Disciplinary Orders).

The Board expects the penalty imposed to be commensurate with the nature and seriousness of the violation.

These penalty guidelines apply only to the formal disciplinary process and do not apply to other alternatives available to the Board, such as citations and fines. See Business and Professions Code Section 125.9 and Title 16 California Code of Regulations Section 1886.

TABLE OF CONTENTS

PENALTY GUIDELINES	4
Engaging in Sexual Contact with Client / Former Client	5
Sexual Misconduct	5
Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure.	<u>of</u>
Commission of an Act Punishable as a Sexually Related Crime	5
Impaired Ability to Function Safely Due to Mental illness, Physical Illness, Affecting Competency or Chemical Dependency	
Chemical Dependency / Use of Drugs With Client While Performing Services	6
Intentionally / Recklessly Causing Physical or Emotional Harm to Client	7
Gross Negligence / Incompetence	7
General Unprofessional Conduct	7
Failure to Comply with Mandated Reporting Requirements	8
Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant	
Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Quali Duties and Functions of License	
Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	9
Discipline by Another State or Governmental Agency	9
Securing or Attempting to Secure a License by Fraud	9
Misrepresentation of License / Qualifications	10
Violates Exam Security / Subversion of Licensing Exam	10
Impersonating Licensee / Allowing Impersonation	10
Aiding and Abetting Unlicensed / Unregistered Activity	10
Failure to Maintain Confidentiality	10
Failure to Provide Sexual Misconduct Brochure	10
Improper Supervision of Trainee / Intern / Associate / Supervisee	11
Violations of the Chapter or Regulations by Licensees or Registrants / Violations In Acquisition and Supervision of Required Hours of Experience	
Pay, Accept, Solicit Fee for Referrals	11
Failure to Disclose Fees in Advance	11
False / Misleading / Deceptive / Improper Advertising	12
Failure to Keep Records Consistent with Sound Clinical Judgment	12
Willful Failure to Comply Clients Access to Mental Health Records	
Failure to Comply with Section 2290.5 (Telemedicine)	

MODEL DISCIPLINARY ORDERS	13
Optional Terms and Conditions of Probation	13
Standard Terms and Conditions of Probation	20
BOARD POLICIES AND GUIDELINES	25
Accusations	_
Statement of Issues	_
Stipulated Settlements	25
Recommended Language for License Surrenders	
•	25

Pages numbers will be renumbered at final revision

PENALTY GUIDELINES

The following is an attempt to provide information regarding violations of laws statues and regulations under the jurisdiction of the Board of Behavioral Sciences and the appropriate range of penalties for each violation. Each penalty listed is followed in parenthesis by a number, which corresponds with a number under the chapter "Model Disciplinary Orders." Examples are given for illustrative purposes, but no attempt is made to catalog all possible violations. Optional conditions listed are those the Board deems most appropriate for the particular violation; optional conditions not listed as potential minimum terms, should nonetheless be imposed where appropriate. The Board recognizes that the penalties and conditions of probation listed are merely guidelines and that individual cases will necessitate variations which take into account unique circumstances.

If there are deviations or omissions from the guidelines in formulating a Proposed Decision, the Board requires that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the Proposed Decision so that the circumstances can be better understood by the Board during its review and consideration of the Proposed Decision.

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC)	Violation Category	Minimum Penalty	Maximum Penalty
Welfare and Institutions Code: (WI) MFT: B&P § 4982.26 LCSW: B&P § 4992.33 LEP: B&P § 4986.71 B&P § 4989.58 GP: B&P § 729	Engaging in Sexual Contact with Client / Former Client	 Revocation / Denial of license or registration Cost recovery. 	Revocation / Denial of license or registration Cost recovery. The law requires revocation/denial of license or registration. The Board considers this reprehensible offense to warrant revocation/denial.
MFT: B&P § 4982(aa)(1) LCSW: B&P § 4992.3(x)(1) LEP: B&P § 4989.54(y)(1)	Engaging In Act with a Minor Punishable as a Sexually Related Crime Regardless of Whether the Act occurred prior to or after registration or licensure. or Engaging in act described in Section 261, 286, 288a, or 289 of the Penal code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the Board.	Revocation / Denial of license or registration Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.	Revocation / Denial of license or registration Cost recovery. The Board considers this reprehensible offense to warrant revocation/denial.
MFT: B&P § 4982(k), 4982.26 LCSW: B&P § 4992.3(k), 4992.33	Sexual Misconduct (Anything other than as defined in B&P Section 729)	 Revocation stayed 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation successfull completion the required Take and pass licensure examinations as a condition precedent to resumption of practice 7 years probation Standard terms and conditions Psychological/psychiatric evaluation as a condition precedent to resumption of practice Supervised practice Psychotherapy 	Revocation / Denial of license or registration Cost recovery. (See B&P 4982.26, 4986.71, 4989.58 4992.33) The Board considers this reprehensible offense to warrant revocation/denial.

		Education Take and pass licensure examination Reimbursement of probation program And if warranted, enter and complete a rehabilitation program approved by the Board; abstain from controlled substances/use of alcohol, submit to biological fluid testing and samples; restricted practice, reimbursement of probation program costs.	
MFT: B&P § 4982(k) LCSW: B&P § 4992.3(k)	Commission of an Act Punishable as a Sexually Related Crime	 Revocation stayed 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation Psychotherapy 5 years probation; standard terms and conditions Psychological/psychiatric evaluation as a condition precedent to the resumption of practice Supervised practice Education Cost recovery Reimbursement of probation program costs And if warranted, restricted practice. 	Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: B&P § 4986.70(c), 4989.26 4986.75 GP: B&P § 480, 820	Impaired Ability to Function Safely Due to Mental Illness or Physical Illness Affecting Competency or Chemical Dependency	 Revocation stayed 60-90 days actual suspension and such additional time as may be necessary to obtain and review psychological or psychiatric evaluation and to implement any recommendations from that evaluation 5 years probation; standard terms and conditions Supervised practice Cost recovery Reimbursement of probation program costs. In addition: MENTAL ILLNESS: Psychological/psychiatric evaluation; psychotherapy. 	 Revocation / Denial of license or registration Cost recovery.

		PHYSICAL ILLNESS: Physical evaluation; and if warranted: restricted practice CHEMICAL DEPENDENCY Psychological/psychiatric evaluation; therapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid tests and samples; and if warranted: restricted practice.	
MFT: B&P § 4982(c), 4982.1 LCSW: B&P § 4992.3(c), 4992.35 LEP: B&P § 4986.70(c), 4986.75 4989.54(c), 4989.56 GP: B&P § 480	Chemical Dependency / Use of Drugs With Client While Performing Services	 Revocation stayed 120-180 days minimum actual suspension and such additional time as may be necessary to obtain and review psychological/psychiatric evaluation and to implement any recommendations from that evaluation 5 years probation Standard terms and conditions Psychological/psychiatric evaluation Supervised practice Education Supervised practice Education Rehabilitation program Abstain from controlled substances Submit to biological fluid test and samples Cost recovery Reimbursement of probation program costs And if warranted, psychotherapy; restricted 	Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982(i) LCSW: B&P § 4992.3(i)	Intentionally / Recklessly Causing Physical or Emotional Harm to Client	 Revocation stayed 90-120 days actual suspension 5 years probation Standard terms and conditions Supervised practice Education Take and pass licensure examinations Cost recovery Reimbursement of probation program costs And if warranted, psychological/psychiatric evaluation; psychotherapy, restricted practice. 	 Revocation / Denial of license or registration application Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(d) LCSW: B&P § 4992.3(d)	Gross Negligence / Incompetence	 Revocation stayed 60-90 days actual suspension; 5 years probation Standard terms and conditions; supervised practice Education Take and pass licensure examinations Cost recovery Reimbursement of probation program costs; And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; restricted practice. 	Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982 CCR § 1845 LCSW: B&P § 4992.3 CCR § 1881 LEP: B&P § 4986.70, B&P § 4989.54 CCR § 1858 GP: B&P § 125.6 480, 821	General Unprofessional Conduct	 Revocation stayed 60-90 days actual suspension 3-5 years probation Standard terms and conditions Supervised practice Education Cost recovery; reimbursement of probation program And if warranted: psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; restricted practice, law and ethics course. 	 Revocation / Denial of license or registration Cost recovery.

Statutes and Regulations	Violation Category	Minimum Penalty	Maximum Penalty
Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI) MFT: B&P § 4980.40(h), 4982(a) LCSW: B&P § 4992.3(a), 4996.2(d),	Violation Category Conviction of a Crime Substantially Related to Duties, Qualifications, and Functions of a Licensee / Registrant	Minimum Penalty Revocation stayed 60 days actual suspension 5 years probation Standard terms and conditions Supervised practice Education Cost recovery	Maximum Penalty Revocation / Denial of license or registration Cost recovery.
		Reimbursement of probation program costs (Costs and conditions of probation depend on the nature of the criminal offense). CRIMES AGAINST PEOPLE: Add:	
		Psychological/psychiatric evaluation; psychotherapy; restitution; and if warranted: rehabilitation program; restricted practice.	
		DRUGS AND ALCOHOL: Add: Psychological/psychiatric evaluation; psychotherapy; rehabilitation program; abstain from controlled substances/use of alcohol, submit to biological fluid testing; and if warranted: restricted practice.	
		FISCAL AND PROPERTY CRIMES: Add: Restitution, and if warranted: psychotherapy; take and pass licensure exams; rehabilitation program; restricted practice.	

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(j) LCSW: B&P § 4992.3(j)	Commission of Dishonest, Corrupt, or Fraudulent Act Substantially Related to Qualifications, Duties and Functions of License	 Revocation stayed 30-60 days actual suspension 3-5 years probation Standard terms and conditions Education Cost recovery Law and ethics course Reimbursement of probation program costs And if warranted. psychological/psychiatric evaluation; supervised practice; psychotherapy; take and pass licensure exams; restricted practice. 	Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4980.02,	Performing, Representing Able to Perform, Offering to Perform, Permitting Trainee or Intern to Perform Beyond Scope of License / Competence	 Revocation stayed 30-60 days actual suspension 3-5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs And if warranted, psychological/psychiatric evaluation; supervised practice; psychotherapy, take and pass licensure exams; restricted practice. 	Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982.25 LCSW: B&P § 4992.36 LEP: B&P § 4986.70 4989.54(h), 4989.54(i) GP: B&P § 141, 480	Discipline by Another State or Governmental Agency	Determine the appropriate penalty by comparing the violation under the other state with California law. And if warranted: take and pass licensure examinations as a condition precedent to practice; reimbursement of probation program costs.	 Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982(b) LCSW: B&P § 4992.3(b), B&P §4992.7 LEP: B&P § 4986.70(b) 4989.54(b) GP: B&P § 480, 498, 499	Securing or Attempting to Secure a License by Fraud	 Revocation / Denial of license or registration application; Cost recovery. 	 Revocation / Denial of license or registration Cost recovery.

Statutes and Regulations Business and Professions Code: (B&P)	Violation Category	Minimum Penalty	Maximum Penalty
Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)			
MFT: B&P § 4980, 4982(f)	Misrepresentation of License / Qualifications	 Revocation stayed 60 days actual suspension 3-5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs And if warranted: take and pass licensure examinations. 	 Revocation / Denial of license or registration Cost recovery.
MFT: B&P § 4982(q) LCSW: B&P § 4992.3(q) - CCR § 1881(l) LEP: CCR § 1858(n) 4989.54(s) GP: B&P § 123, 480, 496	Violates Exam Security / Subversion of Licensing Exam	 Revocation stayed 5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 4982(g) LCSW: B&P § 4992.3(g),	Impersonating Licensee / Allowing Impersonation	 Revocation stayed 60-90 days actual suspension 5 years probation Supervised practice Standard terms and conditions Psychological/psychiatric evaluation Psychotherapy Cost recovery Reimbursement of probation costs 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 4982(h) LCSW: B&P § 4992.3(h)	Aiding and Abetting Unlicensed / Unregistered Activity	 Revocation stayed 30-90 days actual suspension 3-5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs And if warranted: supervised practice. 	Revocation / Denial of license or registration Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(m) LCSW: B&P § 4992.3(m)	Failure to Maintain Confidentiality	 Revocation stayed 60-90 days actual suspension 3-5 years probation Standard terms and conditions Education Take and pass licensure exams Cost recovery Reimbursement of probation program costs 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 728 LCSW: B&P § 728 GP: B&P § 480	Failure to Provide Sexual Misconduct Brochure	 Revocation stayed 1-3 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs. 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 4982(r),	Improper Supervision of Trainee / Intern / Associate / Supervisee	 Revocation stayed 30-90 days actual suspension 2 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs And if warranted: supervised practice. 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 4982(e), 4982(u) LCSW: B&P § 4992.3(e), 4992.3(r) LEP: B&P § 4986.70(e) 4989.54(f) GP: B&P § 480	Violations of the Chapter or Regulations by icensees or Registrants / Violations Involving Acquisition and Supervision of Required Hours of Experience	 Revocation stayed Registration on probation until exams are passed and license issued License issued on probation for one year Rejection of all illegally acquired hours Standard terms and conditions Education Cost recovery Reimbursement of probation program costs. 	 Revocation / Denial of license or registration Cost recovery

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(0) LCSW: B&P § 4992.3(0)	Pay, Accept, Solicit Fee for Referrals	 Revocation stayed 3-5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs Law and Ethics course 	 Revocation / Denial of license or registration Cost recovery
MFT: B&P § 4982(n) LCSW: B&P § 4992.3(n) CCR § 1881(j) LEP: CCR § 1858(l) B&P § 4989.54(0)	Failure to Disclose Fees in Advance	 Revocation stayed 1 year probation Standard terms and conditions Education Cost recovery Reimbursement of probation program 	 Revocation stayed 30 days actual suspension 2 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program
MFT: B&P § 4980.46,	False / Misleading / Deceptive / Improper Advertising	 Revocation stayed 1 year probation Standard terms and conditions Education Cost recovery Reimbursement of probation program 	 Revocation stayed 30-60 days actual suspension 5 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs
MFT: B&P § 4982(v) LCSW: B&P § 4992.3(s) LEP: B&P § 4986.70(i) 4989.54(i)	Failure to Keep Records Consistent with Sound Clinical Judgment	 Revocation stayed 1 year probation Standard terms and conditions Education Cost recovery Reimbursement of probation program 	 Revocation stayed 30 days actual suspension 1-3 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs

Statutes and Regulations Business and Professions Code: (B&P) Title 16, California Code of Regulations: (CCR) General Provisions: (GP) Penal Code: (PC) Welfare and Institutions Code: (WI)	Violation Category	Minimum Penalty	Maximum Penalty
MFT: B&P § 4982(y) LCSW: B&P § 4992.3(v) LEP: B&P § 4989.54(x)	Willful Violation Of Chapter 1 (Commencing With Section 123100) Of Part 1 Of Division 106 Of The Health And Safety Code	 Revocation stayed 30 days actual suspension 1-3 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs 	 Revocation stayed 1 year probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs
MFT: B&P § 4982(z) LCSW: B&P § 4992.3(w)	Failure To Comply With Section 2290.5 (Telemedicine)	 Revocation stayed 30 days actual suspension 1-3 years probation Standard terms and conditions Education Cost recovery Reimbursement of probation program costs 	 Revocation stayed 1 year probation Standard terms and conditions Education Cost recovery; Reimbursement of probation program costs.

MODEL DISCIPLINARY ORDERS

Model Disciplinary Orders are divided into two categories. The first category consists of **Optional Terms and Conditions of Probation** that may be appropriate as demonstrated in the Penalty Guidelines depending on the nature and circumstances of each particular case. The second category consists of the **Standard Terms and Conditions of Probation** which must appear in all Proposed Decisions and proposed stipulated agreements.

To enhance the clarity of a Proposed Decision or Stipulation, the Board requests that all optional conditions (1-16) that are being imposed be listed first in sequence followed immediately by all of the standard terms and conditions, which include cost recovery (17-32).

OPTIONAL TERMS AND CONDITIONS OF PROBATION

Depending on the nature and circumstances of the case, the optional terms and conditions of probation that may appear are as follows:

- 1. Actual suspension
- 2. Psychological / Psychiatric evaluation
- 3. Psychotherapy
- 4. Supervised Practice
- 5. Education
- 6. Take and Pass licensure examinations
- 7. Rehabilitation Program
- 8. Abstain from Controlled Substances/Submit to Biological Fluid Testing and Samples
- 9. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples
- 10. Restricted Practice
- 11. Restitution
- 12. Reimbursement of Probation Program
- 13. Physical Evaluation
- 14. Monitor Billing System
- 15. Monitor Billing System Audit
- 16. Law and Ethics Course

1. Actual Suspension

A.	practice of for a period of days.
OR	
B.	Commencing from the effective date of this decision, respondent shall be suspended from the practice of for a period of days, and such additional time as may be necessary to obtain and review psychological or_psychiatric evaluation, to implement any recommendations from that evaluation, and to successfully complete the required licensure examinations as a condition precedent to resumption of practice as outlined in condition # (Take and pass licensure examinations).

2. Psychological / Psychiatric Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a psychological or psychiatric evaluation by such licensed psychologists or psychiatrists as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such evaluator shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a counselor and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the evaluator to release all information to the Board. Respondent shall comply with the recommendations of the evaluator.

Note: If supervised practice is not part of the order, and the evaluator finds the need for supervised practice, then the following term shall be added to the disciplinary order. If a psychological or psychiatric evaluation indicates a need for supervised practice, (within 30 days of notification by the Board), respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor by which the respondent's practice will be supervised.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

(FYI: The Board requires the appointment of evaluators who have appropriate knowledge, training, and experience in the area involved in the violation).

3. Psychotherapy

Respondent shall participate in ongoing psychotherapy with a California licensed mental health professional who has been approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy is to be borne by respondent.

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval the name and qualifications of one or more therapists of respondent's choice. Such therapist shall possess a valid California license to practice and shall have had no prior business, professional, or personal relationship with respondent, nor shall the psychotherapist be the respondent's supervisor. Respondent shall provide the therapist with a copy of the Board's decision no later than the first counseling session. Upon approval by the Board, respondent shall undergo and continue treatment until the Board or its designee determines that no further psychotherapy is necessary.

Respondent shall take all necessary steps to ensure that the treating psychotherapist submits quarterly written reports to the Board concerning respondent's fitness to practice, progress in treatment, and to provide such other information as may be required by the Board. Respondent shall execute a Release of Information authorizing the therapist to divulge information to the Board.

If the treating psychotherapist finds that respondent cannot practice safely or independently, the psychotherapist shall notify the Board within three (3) working days. Upon notification by the Board, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee that respondent may do so. Respondent shall not thereafter engage in any practice for which a license issued by the Board is required until the Board or its designee has notified respondent that he/she may resume practice. Respondent shall document compliance with this condition in the manner required by the Board.

(FYI: The Board requires that therapists have appropriate knowledge, training and experience in the area involved in the violation).

4. Supervised Practice

Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for its prior approval, the name and qualification of one or more proposed supervisors and a plan by each supervisor. The supervisor shall be a current California licensed practitioner in respondent's field of practice, who shall submit written reports to the Board or its designee on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. The supervisor shall be independent, with no prior business, professional or personal relationship with respondent. Failure to file the required reports in a timely fashion shall be a violation of probation. Respondent shall give the supervisor access to respondent's fiscal and client records. Supervision obtained from a probation supervisor shall not be used as experience gained toward licensure.

If the supervisor is no longer available, respondent shall notify the Board within 15 days and shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per

week in individual face to face meetings. The supervisor shall not be the respondent's therapist.

[Optional - Respondent shall not practice until he/she has received notification that the Board has approved respondent's supervisor.]

5. Education

Respondent shall take and successfully complete the equivalency of _____ semester units in each of the following areas _____. All course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, licensed clinical social worker or clinical psychologist. Classroom attendance must be specifically required; workshops are not acceptable. Course content shall be pertinent to the violation and all course work must be completed within one year from the effective date of this Decision.

Within 90 days of the effective date of the decision respondent shall submit a plan for prior Board approval for meeting these educational requirements. All costs of the course work shall be paid by the respondent. Units obtained for an approved course shall not be used for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the violation is related to record keeping, which includes but is not limited to: recordkeeping, documentation, treatment planning, progress notes, security of records, billing, and reporting requirements.)

6. Take and Pass Licensure Examinations

Respondent shall take and pass the licensure exam(s) currently required of new applicants for the license possessed by respondent. Respondent shall not practice until such time as respondent has taken and passed these examinations. Respondent shall pay the established examination fees. If respondent has not taken and passed the examination within twelve months from the effective date of this decision, respondent shall be considered to be in violation of probation.

7. Rehabilitation Program

Within fifteen (15) days from the effective date of the decision, respondent shall submit to the Board or its designee for prior approval the name of one or more rehabilitation program(s). Respondent shall enter a rehabilitation and monitoring program within fifteen (15) days after notification of the board's approval of such program. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board or its designee. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall sign a release allowing the program to release to the Board all information the Board deems relevant.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random biological fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency

rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs. All costs of participating in the program(s) shall be borne by the respondent.

8. Abstain from Controlled Substances / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use or possession of controlled or illegal substances unless lawfully prescribed by a medical practitioner for a bona fide illness.

Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to respondent's current employer and shall be a violation of probation.

9. Abstain from Use of Alcohol / Submit to Biological Fluid Testing and Samples

Respondent shall completely abstain from the use of alcoholic beverages during the period of probation.

Respondent shall immediately submit to biological fluid testing, at respondent 's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. The respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding will be immediately reported to the respondent 's current employer and shall be a violation of probation.

Restricted Practice Respondent's practice shall be limited to _______. Within 30 days from the effective date of the decision, respondent shall submit to the Board or its designee, for prior approval, a plan to implement this restriction. Respondent shall submit proof satisfactory to the Board or its designee of compliance with this term of probation. Respondent shall notify their supervisor of the restrictions imposed on their practice. Restitution Within 90 days of the effective date of this decision, respondent shall provide proof to the Board or its designee of restitution in the amount of \$______ paid to ______. Reimbursement of Probation Program Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be

\$ per year/\$ per month.

13. Physical Evaluation

Within 90 days of the effective date of this decision, and on a periodic basis thereafter as may be required by the Board or its designee, respondent shall complete a physical evaluation by such licensed physicians as are appointed by the Board. The cost of such evaluation shall be borne by respondent. Failure to pay for the report in a timely fashion constitutes a violation of probation.

Such physician shall furnish a written report to the Board or its designee regarding respondent's judgment and ability to function independently and safely as a therapist and such other information as the Board may require. Respondent shall execute a Release of Information authorizing the physician to release all information to the Board. Respondent shall comply with the recommendations of the physician.

If a physical evaluation indicates a need for medical treatment, within 30 days of notification by the Board, respondent shall submit to the Board or its designee the name and qualifications of the medical provider, and a treatment plan by the medical provider by which the respondent's physical treatment will be provided.

If respondent is determined to be unable to practice independently and safely, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the Board or its designee. Respondent shall not engage in any practice for which a license issued by the Board is required, until the Board or its designee has notified the respondent of its determination that respondent may resume practice.

14. Monitor Billing System

Within 30 days of the effective date of this decision, respondent shall obtain the services of an independent billing system to monitor and document the dates and times of client visits. Clients are to sign documentation stating the dates and time of services rendered by respondent and no bills are to be issued unless there is a corresponding document signed by the client in support thereof. The billing system service shall submit quarterly written reports concerning respondent's cooperation with this system. The cost of the service shall be borne by respondent.

15. Monitor Billing System Audit

Within 60 days of the effective date of this decision, respondent shall provide to the Board or its designee the names and qualifications of three auditors. The Board or its designee shall select one of the three auditors to annually audit respondent's billings for compliance with the Billing System condition of probation. During said audit, randomly selected client billing records shall be reviewed in accordance with accepted auditing/accounting standards and practices. The cost of the audits shall be borne by respondent. Failure to pay for the audits in a timely fashion shall constitute a violation of probation.

16. Law and Ethics Course

Respondent shall take and successfully complete the equivalency of two semester units in law

and ethics. Course work shall be taken at the graduate level at an accredited or approved educational institution that offers a qualifying degree for licensure as a marriage and family therapist, licensed clinical social worker or clinical psychologist as defined in Sections 4980.40 and 4996.18 of the Business and Professions Codes and Section 1854 of Title 16 of the California Code of Regulations. Classroom attendance must be specifically required; workshops are not acceptable. Within 90 days of the effective date of this Decision, respondent shall submit a plan for prior Board approval for meeting this educational requirement. Said course must be taken and completed within one year from the effective date of this Decision. The costs associated with the law and ethics course shall be paid by the respondent. Units obtained for an approved course in law and ethics shall not be used for continuing education units required for renewal of licensure.

(FYI: This term is appropriate when the licensee fails to keep informed about or comprehend the legal obligations and/or ethical responsibilities applicable to their actions. Examples include violations involving boundary issues, transference/countertransference, breach of confidentiality and reporting requirements.)

STANDARD TERMS AND CONDITIONS OF PROBATION

The sixteen standard terms and conditions generally appearing in every probation case are as follows:

- 17. Obey All Laws
- 18. File Quarterly Reports
- 19. Comply with Probation Program
- 20. Interviews with the Board
- 21. Residing or Practicing Out-of-State
- 22. Failure to Practice- California Resident
- 23. Change of Place of Employment or Place of Residence
- 24. Supervision of Unlicensed Persons
- 25. Notification to Clients
- 26. Notification to Employer
- 27. Violation of Probation
- 28. Maintain Valid License
- 29. License Surrender
- 30. Instruction of Coursework Qualifying for Continuing Education
- 31. Notification to Referral Services
- 32. Cost Recovery

Specific Language for Standard Terms and Conditions of Probation

(To be included in all Decisions)

17. Obey All Laws

Respondent shall obey all federal, state and local laws, all statutes and regulations governing the licensee, and remain in full compliance with any court ordered criminal probation, payments and other orders. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board or its designee in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of the decision, unless previously submitted as part of the licensure application process. Respondent shall pay the cost associated with the fingerprint process.

18. File Quarterly Reports

Respondent shall submit quarterly reports, to the Board or its designee, as scheduled on the "Quarterly Report Form" (rev. 01/12/01). Respondent shall state under penalty of perjury whether he/she has been in compliance with all the conditions of probation. Notwithstanding any provision for tolling of requirements of probation, during the cessation of practice respondent shall continue to submit quarterly reports under penalty of perjury.

19. Comply with Probation Program

Respondent shall comply with the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

20. Interviews with the Board

Respondent shall appear in person for interviews with the Board or its designee upon request at various intervals and with reasonable notice.

21. Residing or Practicing Out-of-State

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4986.10 4989.14 or 4996.9 of the Business and Professions Code.

All time spent in an intensive training program outside the State of California which has been approved by the Board or its designee shall be considered as time spent in practice within the State. A Board-ordered suspension of practice shall not be considered as a period of non-practice. Periods of temporary or permanent residence or practice outside California will not apply to the reduction of the probationary term. Periods of temporary or permanent residence or practice outside California will relieve respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; Probation Unit Compliance; and Cost Recovery.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

(OPTIONAL)

Any respondent disciplined under Business and Professions Code Sections 141(a), 4982.25, 4992.36 or 4986.70 4989.54(h), 4989.54(i) (another state discipline) may petition for modification or termination of penalty: 1) if the other state's discipline terms are modified, terminated or reduced; and 2) if at least one year has elapsed from the effective date of the California discipline.

22. Failure to Practice- California Resident

In the event respondent resides in the State of California and for any reason respondent stops practicing in California, respondent shall notify the Board or its designee in writing within 30

calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding thirty calendar days in which respondent is not engaging in any activities defined in Sections 4980.02, 4986.10 or 4996.9 4989.14 of the Business and Professions Code.

23. Change of Place of Employment or Place of Residence

Respondent shall notify the Board or its designee in writing within 30 days of any change of place of employment or place of residence. The written notice shall include the address, the telephone number and the date of the change.

24. Supervision of Unlicensed Persons

While on probation, respondent shall not act as a supervisor for any hours of supervised practice required for any license issued by the Board. Respondent shall terminate any such supervisorial relationship in existence on the effective date of this Decision.

25. Notification to Clients

Respondent shall notify all clients when any term or condition of probation will affect their therapy or the confidentiality of their records, including but not limited to supervised practice, suspension, or client population restriction. Such notification shall be signed by each client prior to continuing or commencing treatment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

(FYI: Respondents should seek guidance from Board staff regarding appropriate application of this condition).

26. Notification to Employer

Respondent shall provide each of his or her current or future employers, when performing services that fall within the scope of practice of his or her license, a copy of this Decision and the Statement of Issues or Accusation before commencing employment. Notification to the respondent's current employer shall occur no later than the effective date of the Decision or immediately upon commencing employment. Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of compliance with this term of probation.

27. Violation of Probation

If respondent violates the conditions of his/her probation, the Board, after giving respondent notice and the opportunity to be heard, may set aside the stay order and impose the discipline (revocation/suspension) of respondent 's license [or registration] provided in the decision.

If during the period of probation, an accusation, petition to revoke probation, or statement of issues has been filed against respondent's license [or registration] or application for licensure, or the Attorney General's office has been requested to prepare such an accusation, petition to revoke probation, or statement of issues, the probation period set forth in this decision shall be automatically extended and shall not expire until the accusation, petition to revoke probation, or statement of issues has been acted upon by the board. Upon successful completion of probation, respondent's license [or registration] shall be fully restored.

28. Maintain Valid License

Respondent shall, at all times while on probation, maintain a current and active license with the Board, including any period during which suspension or probation is tolled. Should respondent's license, by operation of law or otherwise, expire, upon renewal respondent's license shall be subject to any and all terms of this probation not previously satisfied.

29. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 30 calendar days deliver respondent's license and certificate and if applicable wall certificate to the Board or its designee and respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation.

Voluntary surrender of respondent's license shall be considered to be a disciplinary action and shall become a part of respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should respondent at any time after voluntary surrender ever reapply to the Board for licensure, respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

30. Instruction of Coursework Qualifying for Continuing Education

Respondent shall not be an instructor of any coursework for continuing education credit required by any license issued by the Board.

31. Notification to Referral Services

Respondent shall immediately send a copy of this decision to all referral services registered with the Board in which respondent is a participant. While on probation, respondent shall send a copy of this decision to all referral services registered with the Board that respondent seeks to join.

32. Cost Recovery

Respondent shall pay the Board \$	as and for the reasonable costs of the
investigation and prosecution of Case No	Respondent shall make such
payments as follows: [Outline payment schedul	le.] Respondent shall make the check or
money order payable to the Board of Behaviora	I Sciences and shall indicate on the check or
money order that it is the cost recovery paymen	t for Case No Any order for
payment of cost recovery shall remain in effect	whether or not probation is tolled. Probation
shall not terminate until full payment has been n	nade. Should any part of cost recovery not be
paid in accordance with the outlined payment so	chedule, respondent shall be considered to be
in violation of probation. A period of non-practic	ce by respondent shall not relieve respondent
of his or her obligation to reimburse the board for	or its costs.

Cost recovery must be completed six months prior to the termination of probation. Payment plan may be extended at the discretion of the Enforcement Manager based on good cause shown by the probationer.

BOARD POLICIES AND GUIDELINES

ACCUSATIONS

The Board of Behavioral Sciences (Board) has the authority pursuant to Section 125.3 of the Business and Professions Code to recover costs of investigation and prosecution of its cases. The Board requests that this fact be included in the pleading and made part of the accusation.

STATEMENT OF ISSUES

The Board will file a Statement of Issues to deny an application of a candidate for the commission of an act, which if committed by a licensee would be cause for license discipline.

STIPULATED SETTLEMENTS

The Board will consider entering into stipulated settlements to promote cost effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to settlement with the Board, he or she may be required to admit to the violations set forth in the Accusation. The Deputy Attorney General must accompany all proposed stipulations submitted with a memo addressed to Board members explaining the background of the case, defining the allegations, mitigating circumstances, admissions, and proposed penalty along with a recommendation.

RECOMMENDED LANGUAGE FOR LICENSE SURRENDERS

"Admission(s) made in the stipulation are made solely for the purpose of resolving the charges in the pending accusation, and may not be used in any other legal proceedings, actions or forms, except as provided in the stipulation.

The admissions made in this stipulation shall have no legal effect in whole or in part if the Board does not adopt the stipulation as its decision and order.

Contingency

This stipulation shall be subject to approval by the Board of Behavioral Sciences. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Behavioral Sciences may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his/her counsel. By signing the stipulation, Respondent understands and agrees that he/she may not withdraw his/her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

Respondent fully understands that when the Board adopts the license surrender of respondent's license, respondent will no longer be permitted to practice as a _____ in California. Respondent further understands that the license surrender of his or her license, upon adoption, shall be considered to be a disciplinary action and shall become a part of respondent 's license history with the Board.

The respondent further agrees that with the adoption by the Board of his or her license surrender,

respondent may not petition the Board for reinstatement of the surrendered license.

Should respondent at any time after this surrender ever reapply to the Board for licensure, respondent must meet all current requirements for licensure including, but not limited, to filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.

Respondent understands that should he or she ever reapply for licensure as a _____ or should he or she ever apply for any other registration or licensure issued by the Board, or by the Board of Psychology, all of the charges contained in Accusation No.____ shall be deemed admitted for the purpose of any Statement of Issues or other proceeding seeking to deny such application or reapplication."

RECOMMENDED LANGUAGE FOR REGISTRATION APPLICANTS

IT IS HEREBY ORDERED THAT Respondent be issued a Registration as a

. Said Registration shall be revoked. The revocation will be stayed and Respondent placed on years probation with the following terms and conditions. Probation shall continue on the same terms and conditions if Respondent is issued a subsequent registration or becomes licensed during the probationary period.

RECOMMENDED LANGUAGE FOR REGISTRANTS

IT IS HEREBY ORDERED THAT	Registration Number	issued to Respondent
is revoked. The	e revocation will be stayed and resp	ondent placed on
years probation with the following	terms and conditions. Probation s	hall continue on the same
terms and conditions if Respondent is is	sued a subsequent registration or b	pecomes licensed during
the probationary period.	-	-

Proposed Decisions

The Board requests that proposed decisions include the following if applicable:

- A. Names and addresses of all parties to the action.
- B. Specific Code section violated with the definition of the code in the Determination of Issues.
- Clear description of the acts or omissions that constitute a violation.
- D. Respondent's explanation of the violation in the Findings of fact if he or she is present at the hearing.
- E. Explanation for deviation from the Board's Disciplinary Guidelines.

When a probation order is imposed, the Board requests that the Order first list the Optional Terms and Conditions (1-16) followed by the Standard Terms and Conditions (17–22) as they may pertain to the particular case. If the respondent fails to appear for his or her scheduled hearing or does not submit a notice of defense, such inaction shall result in a default decision to revoke licensure or deny application.

REINSTATEMENT / REDUCTION OF PENALTY HEARINGS

The primary concerns of the Board at reinstatement or penalty relief hearings are (1) the Rehabilitation Criteria for Suspensions or Revocations identified in Title 16, California Code of Regulations Section 1814, and (2) the evidence presented by the petitioner of his or her rehabilitation. The Board is not interested in retrying the original revocation or probation case. The Board shall consider, pursuant to Section 1814, the following criteria of rehabilitation:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any acts committed subsequent to the acts or crimes under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the acts or crimes giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent, or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.

In the Petition Decision the Board requires a summary of the offense and the specific codes violated which resulted in the revocation, surrender, or probation of the license.

In petitioning for Reinstatement or Reduction of Penalty under Business and Professions Code Section 4982.2, the petitioner has the burden of demonstrating that he or she has the necessary and current qualifications and skills to safely engage in the practice of marriage and family therapy, clinical social work, or educational psychology within the scope of current law, and accepted standards of practice. In reaching its determination, the Board considers various factors including the following:

- A. The original violations for which action was taken against the petitioner's license;
- B. Prior disciplinary and criminal actions taken against the petitioner by the Board, any State, local, or Federal agency or court;
- C. The petitioner's attitude toward his or her commission of the original violations and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts;
- D. The petitioner's documented rehabilitative efforts;
- E. Assessment of the petitioner's rehabilitative and corrective efforts;
- F. In addition, the Board may consider other appropriate and relevant matters not reflected above.

If the Board should deny a request for reinstatement of a revoked license or reduction of penalty (modification or termination of probation), the Board requests the Administrative Law Judge provide

technical assistance in the formulation of language clearly setting forth the reasons for denial.

If a petitioner fails to appear for his or her scheduled reinstatement or penalty relief hearing, such proceeding shall go forth without the petitioner's presence and the Board will issue a decision based on the written evidence and oral presentations submitted.



CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 239 VERSION: JUNE 19, 2008

AUTHOR: DESAULNIER SPONSOR: CALIFORNIA ASSOCIATION OF ALCOHOLISM AND

DRUG ABUSE COUNSELORS

RECOMMENDED POSITION: NONE

SUBJECT: LICENSED ALCOHOLISM AND DRUG ABUSE COUNSELORS

Existing Law:

1) Defines a psychotherapist as a physician and surgeon specializing in psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a MFT, a psychological assistant, a MFT registered intern or trainee, or an associate clinical social worker.

- 2) Establishes the following general requirements for licensure of psychotherapists:
 - a) A graduate degree from an accredited school in a related clinical field;
 - b) Extensive hours of supervised experience gained over years;
 - c) Registration with a regulatory Board while gaining the supervised experience; and,
 - d) Standard and Clinical Vignette licensing examinations.
- 3) Current Department of Alcohol and Drug Programs (ADP) regulations specify the following:
 - a) By April 1, 2010, at least 30% of counselors in licensed facilities shall be in compliance with certification requirements and all other counseling staff shall be registered with a certifying organization (9 CCR §13010).
 - b) Any individual who was certified to provide counseling services in an alcohol or other drug program by a certifying organization as of April 1, 2005, is deemed to be certified pursuant to the requirements of the regulation. (9 CCR §13020)
 - c) Until April 1, 2007, any certifying organization may issue a certificate to any individual employed as an alcohol or other drug program counselor as of April 1, 2005 if the individual is certified and has achieved a score of at least 70% on an approved oral/written examination and has either been providing counseling services for 40 hours a week for a minimum of five years between April 1, 1995 and April 1, 2005 or

- possesses an Associates of Arts, Bachelor of Arts, or Master of Arts degree in the study of chemical dependency.(9 CCR §13025)
- d) By October 1, 2005 or within six months of the date of hire, whichever is later, all non-licensed or non-certified individuals providing counseling services in an alcohol or other drug program must be registered to obtain certification as an alcohol or other drug program counselor. (9 CCR §13035 (f))
- e) Registrants shall complete certification as an alcohol or other drug program counselor within five years from the date of registration. (9 CCR §13035 (f)(1))
- f) In order for a certifying organization to issue alcohol or other drug program counselor certification, their certification requirements must meet DADP minimum standards. These standards include: completing a minimum of 155 hours of formal classroom alcohol or other drug program counselor education, as defined, completing a minimum of 160 documented hours of supervised alcohol or other drug program counseling, completing 2,080 or more documented hours of work experience, and obtaining a score of at least 70% on an exam approved by the certifying organization. (9 CCR §13040)

This Bill:

- 1) Enacts the Alcoholism and Drug Abuse Counselor licensing law and provides for the licensing and regulation of alcoholism and drug abuse counselors (Counselors) by the Board of Behavioral Sciences (Board).
- 2) Provides that the Board membership, after January 1, 2011, shall include one state licensed alcoholism and drug abuse counselor. (B & P Code § 4990)
- 3) Adds an additional public member to the Board, appointed by the Governor, changing the public membership from six individuals to seven individuals. (B & P Code § 4990 (d))
- 4) Defines terms related to this bill, including the following: (B & P Code § 4702)
 - a. "Licensed alcoholism and drug abuse counselor I" (ADAC I) means a person licensed by the Board to practice alcoholism and drug abuse counseling under clinical supervision.
 - b. "Licensed alcoholism and drug abuse counselor II" (ADAC II) means a person licensed by the Board to conduct an independent practice of alcoholism and drug abuse counseling, as defined, and to provide supervision to ADAC I licensees.
 - c. "Experience" means experience in the practice of alcoholism and drug abuse counseling, as defined in this bill.
 - d. "Clinical supervision" means the ongoing process of direct review of a supervisee for the purpose of ensuring administrative accountability, enhancing training and education, and ensuring quality control. The direct review shall be preformed by a qualified supervisor who monitors the performance of acts within the practice alcoholism and drug abuse counseling and provides regular consultation, guidance, and instruction with respect to the counseling skills and competencies of the supervisee.

- e. "Practice of alcoholism and drug abuse counseling" means performing any of the following for the purpose of treating alcoholism and drug abuse:
 - i. Screening a client to determine eligibility for admission to a treatment program;
 - Initial intake to include the administrative and initial assessment procedures for admission into a treatment program (does not include psychological testing intended to diagnose mental illness);
 - iii. Orientation to include describing to the client the general nature and goals of the treatment program;
 - iv. Alcoholism and drug abuse counseling, including individual, group, and significant others with the utilization of special skills to assist in the achieving of objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, considerations of alternative solutions and decision making as each relates to substance abuse (Counseling shall be limited to assisting a client in learning more about himself or herself for the purposes of understanding how to effectuate clearly perceived, realistically defined goals related to abstinence. Counseling is limited to assisting the client to learn or acquire new skills that will enable the client to cope and adjust to life situations without the use of substances);
 - v. Case management including the activities that bring services, agencies, resources, or individuals together within a planned framework of action toward achievement of established goals;
 - vi. Crisis intervention required to respond to an alcohol or drug abuser's needs during acute emotional or physical distress;
 - vii. Assessment by a counselor or program to identify and evaluate an individual's strengths, weaknesses, problems, and needs for development of the treatment plan;
 - viii. Treatment planning, the process by which the counselor and the client identify and rank problems needing resolution, establish agreed upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized:
 - ix. Client education to inform individuals and groups concerning alcohol and other drugs of abuse and the services and resources available;
 - x. Referral includes the identifying of the client's needs that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available;
 - xi. Reports and recordkeeping documenting the client's progress in achieving the client's goals; and,
 - xii. Consultation with other professionals in regard to client treatment or services.

- f. "Student" means an unlicensed person who is currently enrolled in a course of education that is designed to qualify him or her for licensure pursuant to the provisions of this bill and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying education program.
- 5) Directs the Board to carry out the provisions of this bill, including the following: (B & P Code § 4703)
 - a. Issue licenses and registration beginning January 1, 2011;
 - b. Adopt rules and regulations relating to the provisions of this bill;
 - c. Take disciplinary action against a licensees, where appropriate;
 - d. Establish continuing education requirements for licensees;
 - e. Establish procedures for the receipt, investigation, and resolution of complaints against licensees;
 - f. Establish criteria to determine whether the curriculum of an educational institution satisfies the licensure requirements imposed by this bill;
 - g. Establish parameters of unprofessional conduct for licensees that are consistent with generally accepted national standards for the practice of alcoholism and drug abuse counseling;
 - h. Establish reinstatement procedures for an expired or revoked license; and,
 - i. Establish coursework required to obtain a license, including but not limited to, coursework in law and ethics, psychopathology, methodology treatments, cultural diversity, psychopharmacology, anger management and domestic violence, interviewing techniques, and conflict resolution.
- 6) Provides that nothing in the provisions of this bill shall be construed to constrict, limit, or withdraw the Medical Practice Act, the Nursing Practice Act, the Psychology Licensing Act, the Marriage and Family Therapy (MFT) Practice Act, or the Licensed Clinical Social Worker (LCSW) Practice Act. (B & P Code § 4704 (a))
- 7) Exempts the following persons from the provisions of this chapter: (B & P Code § 4704 (b))
 - a. Individuals employed or volunteering at a program administered by a governmental agency, including but not limited to ADP or the Department of Corrections and Rehabilitation (CDCR), if the person is qualified or licensed to engage in practice.
 - b. A person who is a member of a peer or self-help group who performs peer group of self-help activities if the person does not use the a title stating or implying that he or she is a licensed alcohol and drug abuse counselor.
 - c. A cleric or other religious leader who provides advice and guidance to members of his or her congregation or order free of charge.
 - d. A director, officer, or staff member of a live-in alternative to incarceration rehabilitation program, as defined in Penal Code section 8001.
 - e. An employee or volunteer at a facility or program that contracts with a court, probation department, county jail, or CDCR to provide services for persons in a drug

court program, or deferred entry of judgment, or preguilty plea program.

- 8) Requires the Board to issue an ADAC II license to a person that submits an application from January 1, 2011 to December 31, 2011 (grandparenting period) and meets the following requirements: (B & P Code § 4705)
 - a. Current certification by an organization recognized by ADP and accredited by the National Commission on Certifying Agencies (NCCA);
 - b. Is a high school graduate or possesses a general education development equivalent;
 - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
 - d. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
 - e. Passes the written examination as required by the Board;
 - f. Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely;
 - g. Completes at least six hours of education in supervision techniques;
 - h. Completes at least 10 hours of education in the recognition of co-occurring disorders, referral process, and the evaluation of clients using placement criteria; and,
 - i. Proof of one of the following:
 - At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services, including 4,000 hours of experience in clinical supervision; or,
 - ii. At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services and current licensing in a mental health field requiring at least a master's degree.
- 9) Requires the Board, beginning January 1, 2012, to issue an ADAC II license to a person that completes an application, pays the appropriate licensure fees and meets the following requirements: (B & P Code § 4706)
 - a. Passes the written examination as required by the board;
 - b. Holds a master's degree in alcoholism and drug abuse counseling, or a clinically focused mental health field approved by the Board, obtained from an accredited school. The degree must include at least 18 semester units in counseling or counseling related subjects and 255 hours of supervised practicum experience;
 - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug; abuse, including a 45-hour classroom practicum;
 - d. Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely;

- e. Completes at least six hours of education in supervision techniques;
- f. Completes at least 10 hours of education in the recognition of co-occurring disorders, referral process, and the evaluation of clients using placement criteria; and,
- g. Obtains at least 6,000 hours of experience in direct alcoholism and drug abuse counseling treatment.
- 10) Requires the Board, beginning January 1, 2011, and through December 31, 2011 (the grandparenting period), to issue an ADAC I license to a person that meets the following requirements: (B & P Code § 4707)
 - a. Current certification by an organization recognized by ADP and accredited by NCCA;
 - b. Is a high school graduate or possesses a general education development equivalent;
 - c. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
 - d. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
 - e. Passes the written examination as required by the Board; and,
 - f. Completes at least 4,000 hours of clinically supervised experience.
- 11) Requires the Board, beginning January 1, 2012 to issue an ADAC I license to a person that meets the following requirements: (B & P Code § 4708)
 - a. Holds a bachelor's degree from an accredited school;
 - b. Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse, including a 45-hour classroom practicum;
 - c. Completes a minimum of 255 hours of field work in a clinically supervised practicum;
 - d. Completes a minimum of 4,000 hours of supervised experience; and,
 - e. Passes the written examination as required by the Board.
- 12) Provides that if a licensee fails to renew a license issued during the grandparenting period (January 1, 2011 through December 31, 2011) before the expiration date of the license, the licensee will be required to meet the current licensure requirements before obtaining a new license. (B & P Code § §4705, 4707)
- 13) Authorizes the Board to evaluate the written examination offered by IC&RC prior to its use to determine whether it meets the prevailing standards of the Office of Examination Resources and is adequate at measuring the skills and knowledge required to deliver safe and effective alcoholism and drug abuse counseling. (B & P Code § 4709)
- 14) Allows the board to develop an alternate or supplemental examination if it deems necessary. If it is determined that an alternate or supplemental examination is needed, the IC&RC exam shall be used until the alternate or supplemental examination is adopted.

- Additionally requires the examinations to be given twice a year, at a time and place determined by the Board or offered by IC&RC. (B & P Code § 4709)
- 15) Allows the Board to issue an ADAC I or ADAC II license to any person who has held for at least two years, a valid corresponding license in another state, if the educational and supervised experience requirements are substantially equivalent to the respective requirements of this bill, and the person successfully completes the Board administered examinations. (B & P Code § 4711)
- 16) Allows the Board to accept education gained while residing outside of California, if the education is substantially equivalent to the education requirements in this bill. (B & P Code § 4712)
- 17) Allows the Board to accept experience gained outside of California if it is substantially equivalent to the licensure requirements provided for in this bill. (B & P Code § 4712)
- 18) States that an ADAC I clinical supervisor may include an ADAC II, MFT, LCSW, licensed psychologist, licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology, or a physician who has completed a residency but is not yet board certified in psychiatry. All clinical supervisors must have at least 4,000 hours of direct treatment experience in substance abuse and addiction. (B & P Code § 4722(a))
- 19) Requires a clinical supervisor to have a written agreement with the supervisee describing the planned hours of practice, supervision schedule, nature of work assignments and other specifications. (B & P Code § 4722(b))
- 20) Requires a clinical supervisor to evaluate a supervisee at least annually and requires these evaluations to be signed by both the supervisor and the supervisee and copies retained by both for seven years. (B & P Code § 4722(c))
- 21) Requires at least 50 hours of face-to-face supervision a year, averaging one hour per week. As necessary, clinical supervisors shall make themselves available to each supervisee for face-to-face consultations or consultations via telephone, or other electronic means. (B & P Code § 4722(d))
- 22) Limits the number of supervisees assigned to a clinical supervisor to no more than five at one time, unless specifically authorized by the board to supervise additional supervisees. (B & P Code § 4722(e))
- 23) An ADAC I shall conduct business in the same work setting as their clinical supervisor subject to regulation by the board. (B & P Code § 4722(f))
- 24) Requires and ADAC I to disclose to a client prior to performing professional services that he or she is licensed by the state and under the supervision of a licensed mental health professional, the extent of his or her training, and that he or she will make a referral to another licensed mental health professional within 14 days for assessment of any co-occurring disorders. (B & P Code § 4722(g))
- 25) Provides that the scope of practice for the ADAC I shall include the practice of alcoholism and drug abuse counseling, and stipulates that an ADAC I may perform these services in private practice only if under the supervision of an ADAC II or other clinical supervisor as specified. (B & P Code § 4721(b))

- 26) Authorizes an ADAC I to provide services in hospitals, agencies, and other facilities where alcoholism and drug abuse services are delivered, without supervision, in accordance with the laws and regulations governing the facilities. (B & P Code § 4721(b)(2))
- 27) Describes the scope of practice for an ADAC II to include both the practice of alcoholism and drug abuse counseling and the clinical supervision of interns and ADAC I practitioners. (B & P Code § 4721 (a))
- 28) Requires all clients of ADAC I and ADAC II practitioners to be referred for an initial assessment within 14 days of intake to be assessed for any co-occurring needs or disorders by one of the following professional: (B & P Code § 4723(a))
 - a. An MFT
 - b. An LCSW
 - c. A Licensed psychologist
 - d. A Licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology
 - e. A Licensed physician who has completed a residency but is not yet board certified in psychiatry
 - f. Any other licensed professional approved by the board
- 29) Requires a professional receiving a referral pursuant to the provisions of this bill, with the written consent of the client, to provide to the referring alcoholism and drug abuse counselor a signed, written report that includes assessment results and treatment and referral recommendations. (B&P Code §4722(a)(3))
- 30) Makes it unlawful for any person to engage in the following acts included in the definition of the practice of alcoholism and drug abuse counseling without licensure pursuant to the provisions of this bill: orientation, crisis intervention, assessment, treatment planning, referral, reports and recordkeeping, consultation with other professions regarding client treatment, and, alcoholism and drug abuse counseling. (B & P Code § 4721.1)
- 31) Makes it unlawful for any person not licensed under the provisions of this bill, to operate a private practice in alcoholism and drug abuse counseling or represent himself or herself as, or use the title or designation of a alcoholism and drug abuse counselor, or make use of any title, words, letters or abbreviations that may reasonably be confused with a designation provided by this bill to denote a standard of professional or occupational competence.

 (B & P Code § 4721.1)
- 32) Allows the Board to deny, revoke or suspend a license for unprofessional conduct, as defined, including the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any specified substances, after becoming licensed. (B & P Code § 4724 (c))
- 33) Requires the Board to file an accusation against a licensee within three years from the date the Board discovers the alleged act that is the basis for disciplinary action, or within seven years from the date the alleged act that is the basis for disciplinary action occurred, with specified exemptions, including those for occurrences relating to sexual misconduct. (B & P Code § 4725)
- 34) Requires an applicant for licensure to submit to a criminal history background check, and makes refusal to do so grounds for denial of the license. (B & P Code § 4726)

- 35) Requires the Board, when reviewing an applicant's criminal background history that includes one or more convictions, to consider all the following factors in determining whether to issue a license: (B & P Code § 4726 (c))
 - a. The level of seriousness of the crime committed;
 - b. The date that the crime was committed;
 - c. The age of the applicant at the time of conviction;
 - d. The circumstances surrounding the commission of the crime, if known;
 - e. The nexus between the criminal conduct and the duties of a licensed alcoholism and drug abuse counselor; and,
 - f. The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- 36) Requires a licensee to complete not less than 60 hours of continuing education coursework that is offered by a Board approved provider and that is relevant to the field of alcoholism and drug abuse counseling in order to renew licensure, on a biennial basis. (B & P Code § 4728 (a))
- 37) Directs the Board to establish procedures for approving providers of continuing education, and requires the Board to fund the administration of the provisions relating to continuing education by collecting continuing education provider fees. (B & P Code § 4728)
- 38) Allows the Board to place a licensee on probation under specified circumstances. (B & P Code § 4735)
- 39) Provides that violation of the Alcoholism and Drug Abuse Counselor licensing Act is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both. (B & P Code § 4739)
- 40) Stipulates that start up funds to implement the provisions of this bill shall be derived as a loan, from the reserve of the Behavioral Science Fund, subject to an appropriation by the Legislature, and states that the Board shall not be required to implement the provisions of this bill until the start up funds have been appropriated. (B & P Code § 4740 (b))
- 41) Allows the Board to adjust the deadlines imposed by this bill in the event that funds have not been appropriated. (B & P Code § 4740 (c))
- 42) Requires the board to enter into a memorandum of understanding (MOU) with the Director of ADP to address how each agency will work with the other to plan, oversee, and regulate alcohol and drug treatment within the State. (B & P Code § 4745(a))
- 43) Allows the Director of ADP to sit on the board in an ex officio capacity to discuss items of shared or related responsibility.
- 44) Requires the provisions of the memorandum of understanding to be guided by the shared goals of improving consumer protection and ensuring efficient use of resources devoted to

treatment of chemical dependency, whether by entities and individuals subject to regulation by the board or by ADP, or both.

Comment:

1) Author's Intent. According to the sponsor of this bill, creating a licensure category for this profession will raise the level of care provided to addicts seeking treatment in the private sector where the progression of their disease may be treated before costly, in-patient, publicly financed treatment becomes necessary.

The sponsor states that this proposal will benefit the counselors and consumers through the following:

- Consumer will have a means to address complaints and seek redress for abusive and incompetent behavior by licensed individuals.
- Consistent standards of quality of education, training and experience for licensees.
- Safeguard the public health, safety and welfare, and to protect the public from unauthorized service delivery by non-licensed alcohol and drug abuse counselors.
- Professionalizes the industry and allows career building for alcoholism and drug abuse counselors.
- **2)** Licensing categories. The following table outlines the requirements and qualifications for alcoholism and drug abuse counselor licensure, pursuant to the provisions in this bill.

Requirements	ADAC Student	ADAC I Grandparented	ADAC I (after 1/1/2012)	ADAC II Grandparented	ADAC II (after 1/1/2012)
Education	Semester units or 18 quarter units	High School or GED Certification recognized by ADP & Accredited by NCCA 315 hours classroom instruction (w/ 45 hrs practicum) 255 hrs fieldwork in clinically supervised practicum	Bachelor's Degree 315 hours classroom instruction (w/ 45 hrs practicum) 255 hrs fieldwork in clinically supervised practicum	High School or GED Certification recognized by ADP & Accredited by NCCA 315 hours classroom instruction (w/ 45 hrs practicum) 255 hrs fieldwork in clinically supervised practicum 6 hrs in supervision techniques 6 hrs law & ethics 10 hrs co-occurring disorders	Master's Degree 315 hrs classroom instruction (w/ 45 hrs practicum) 255 hours of supervised practicum experience within degree 6 hrs. supervision techniques 6 hrs law & ethics 10 hrs co- occurring disorders
Experience	none	4,000 hrs clinically supervised	4,000 hours clinically supervised	10,000 in direct counseling w/ 4,000 in clinical supervision *OR* 10,000 hrs of direct and current licensure in a mental health field requiring at least a master's degree.	6,000 hrs direct counseling

Requirements	ADAC Student	ADAC I Grandparented	ADAC I (after 1/1/2012)	ADAC II Grandparented	ADAC II (after 1/1/2012)
Exam	none	Written	Written	Written	Written
Level of Supervision	Allowed to practice if it is during the "supervis ed course of Study". (4704)	Clinical supervision by specified mental health professional (4722). Annual evaluation, at least 50 hours of face-to-face supervision a year, and a written agreement between the supervisor and supervisee.	Clinical supervision by specified mental health profession al. Annual evaluation, at least 50 hours of face-to-face supervision a year, and a written agreement between the supervisor and supervisee.	none	none

3) Grandparenting. As currently drafted, this bill allows applicants for an ADAC I and ADAC II license to qualify for licensure from January 1, 2011 through December 31, 2011 without a degree from an accredited university. Both the ADAC I and ADAC II require only a high school diploma or GED during the grandparenting period to meet the education qualifications. However, after January 1, 2012, the ADAC I must have a bachelor's degree to qualify for licensure and an ADAC II must have a qualifying master's degree.

In order to maintain high consumer protection standards, a specified recertification period should be required of those licensed under the grandparenting provisions contained in this bill. This recertification would consist of passing the current licensing examination (if different) and meeting all other requirements necessary for licensure at the time of recertification.

 Suggested Amendment. Add a section that requires persons grandparented under sections 4705 and 4707 to be recertified after a specific time period, to consist of taking current licensing examinations and meeting all other requirements at the time of recertification. This language is consistent with Board approved language amended into AB 1486 (Calderon), the bill creating licensure for Professional Counselors.

- **Suggested Amendment.** Insert sunset dates in to the grandparenting provisions, making those provisions sunset after the grandparenting period ends in 2012.
- 4) Previous Board and Committee Consideration. The Policy and Advocacy Committee considered AB 1367 (DeSaulnier), with similar content to this bill, for a position recommendation on January 18, 2008. The committee did not adopt a formal recommendation to the board and asked for more information to be provided at the next committee meeting. However, AB 1367 failed to pass out of Assembly Appropriations Committee in April and was no longer viable when the Policy and Advocacy Committee met next on April 11, 2008.

The current bill, AB 239, was gutted of previous content on April 9, 2008 and amended to create licensure for alcoholism and drug abuse counselors. The current version of this bill includes many amendments taken by the sponsors to address issues discussed at the January Policy and Advocacy Committee meeting.

On May 29, 2008, the full board considered AB 239 and did not adopt a formal position on the bill, but instead tabled the item for further discussion at the next meeting.

5) Board Loan to General Fund. The May revise of the Governor's 2008-2009 budget provided for a \$3 million loan from the board's reserve to the General Fund. The board has now 5.3 months operating expenses in reserve. A minimum reserve of three to six months is commonly recommended by the Department of Finance.

AB 239 provides that start-up funds to implement the licensing law contained therein shall be derived, as a loan, from the reserve of the BBS Fund, subject to an appropriation by the Legislature in the annual Budget Act. The board is not required the implement the provisions of this bill until the start-up funds have been appropriated.

The Assembly Appropriations Committee estimated that start-up costs would be approximately \$1.2 million.

- 6) Memorandum of Understanding. This bill was recently amended to include an MOU between the board and ADP. Staff notes several issues with the language requiring the MOU: (B & P Code §4745 and Health and Safety Code § 11776.5)
 - The provisions of the MOU must "be guided by the shared goals of improving consumer protection and ensuring efficient use of resources devoted to treatment of chemical dependency...." This is inconsistent with Business and Professions Code section 4990.16 which states that the "Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."
 - The MOU provision requires the board to allow the Director of ADP to sit on the board as an ex officio member to discuss items of shared or related responsibility. This bill already adds two more board members one public and one licensed alcoholism and drug abuse counselor. With the amendment adding the MOU, for the purposes of staff workload, this will add yet another board member to staff. The need to have the director of ADP sit on the board is unclear as the board process is open, as discussed further below.

- The board is subject to the Bagley-Keene Open Meeting Act set forth in Government Code sections 11120-11132. The Bagley-Keene Act requires the board to publicly notice meetings, prepare agendas, accept public testimony and conduct meetings in public, unless authorized in specified situations to hold a closed session. The act was created to require government to make decisions through deliberation and consensus building. Because the board process is required to be open and incorporates the participation of the public, it is unnecessary to require a MOU between ADP and the Board for the specific purpose of working together on policies relating to alcoholism and drug abuse counselors.
- 7) Different Standards of Care. This bill creates licensure for individuals practicing alcoholism and drug abuse counseling in a private setting only. Currently ADP regulates and certifies counselors providing treatment in ADP licensed facilities (see *Existing Law*). Should policies be implemented that encourage disparate standards of care for those seeking treatment in a residential facility and those seeking outpatient care?
- 8) ADAC I Education and Scope of Practice. As currently drafted this bill requires a Bachelor's degree, completion of 315 hours of classroom instruction and 255 hours of clinically supervised fieldwork (see table on page 11) to obtain an ADAC I license. In addition, ADAC I licensure requires 4,000 hours of clinically supervised experience. These requirements far exceed the current requirements for an individual working as an alcoholism and drug abuse counselor in state licensed facilities, which may be argued is one of the goals of creating the licensure program. However, as discussed above (in #7) this creates an unequal system of care, with disparities between service providers working in a private setting and those working in licensed facilities. Moreover, by elevating the educational standards for the ADAC I significantly beyond current requirements, this bill risks disenfranchising the individuals most likely to seek licensure. Because the post grandparenting period would require a Bachelor's degree for a individual that may practice only while supervised, it is questionable whether there would be a sustainable licensing base going forward. The Board may want to consider whether the educational requirements for licensure for an ADAC I is commensurate with the scope of practice of that category of licensee.
- 9) Suggested Amendment. The need for an MOU is unclear. Additionally, as currently drafted, the section requiring the MOU is inconsistent with current licensing law, is burdensome to board function and meets no clear objective. Staff suggests deleting Health and Safety Code section 11776.5 in its entirety and amending Business and Professions Code section 4745 by replacing the current language with the following:

In developing regulations and policies that affect the licensing of alcoholism and drug abuse counselors pursuant to this chapter the Board shall solicit the advice of representatives of the Department of Alcohol and Drug Programs to address how each agency will work with the other to plan, oversee and regulate alcoholism and drug abuse treatment within the State of California.

10) Support and Opposition.

Support:

California Association of Alcoholism & Drug Abuse Counselors (Sponsor)
American Federation of State, County and Municipal Employees
ARH Benny Mckeowns Center
Betty Ford Center
Bilingual Family Counseling Service, Inc.

Bridges, Inc.

California Association of Marriage and Family Therapists (CAMFT)

California Certification Board of Alcohol and Drug Counselors (CCBADC)

California Foundation for the Advancement of Addiction Professionals

California Probation Parole and Correctional Association (CPPCA)

California Society for Clinical Social Work

Choice and Change

Clean Living Learning Center

Community Recovery Resources

Dignity's Alcove Inc.

Dominican Santa Cruz Hospital

East L.W./Whittier Recovery Center

El Cajon Treatment Center

Escondido Community Sobering Services

Free Life Recovery Center

Genesis Programs, Inc.

Home Avenue Clinic

InterCoast Colleges

Janus of Santa Cruz

Lake County Mental Health

Pathway Society, Inc.

Pharmatox. Inc.

Sober Living by the Sea

Strategies for Change

Street Retreat Drug Policy Alliance Network (DPAN)

Sun Ray Addictions Counseling and Education

Teamsters Alcohol and Drug Rehabilitation

The Justin Foundation

Twin Town Treatment Centers

Opposition:

California Association of Addiction Recovery Resources (CAARR)

California Association of Alcohol and Drug Program Executives (CAADPE)

California Opioid Maintenance Providers

Health Net

Tulare County Alcoholism Council, Inc.

11) History

2008	
June 23	
lune 19	

June 23	Withdrawn from committee. Re-referred to Com. on APPR.
June 19	Read second time, amended, and re-referred to Com. on PUB. S.

June 18 From committee: Amend, do pass as amended, and re-refer to Com. on

PUB. S. (Ayes 6. Noes 2.).

May 22 Re-referred to Coms. on HEALTH and PUB. S.

May 21 Withdrawn from committee. Re-referred to Com. on RLS.

May 20 Read second time, amended, and re-referred to Com. on APPR.

From committee: Amend, do pass as amended, and re-refer to Com. on May 19

APPR. (Ayes 7. Noes 2.).

May 5 From committee chair, with author's amendments: Amend, and re-refer

to committee. Read second time, amended, and re-referred to Com. on

B., P. & E.D.

Apr. 14 Re-referred to Com. on B., P. & E.D.

Withdrawn from committee. Re-referred to Com. on RLS. Apr. 10

Apr. 9	From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on L.GOV.
2007	
June 27	In committee: Set, first hearing. Hearing canceled at the request of author.
June 7	Referred to Coms. on L.GOV. and JUD.
May 30	In Senate. Read first time. To Com. on RLS. for assignment.
May 29	Read third time, passed, and to Senate. (Ayes 42. Noes 35. Page 1669.)
May 10	Read second time. To third reading.
May 9	From committee: Do pass. (Ayes 5. Noes 2.) (May 9).
May 1	Re-referred to Com. on H. & C.D.
Apr. 30	From committee chair, with author's amendments: Amend, and re-refer to Com. on H. & C.D. Read second time and amended.
Apr. 9	Re-referred to Com. on H. & C.D.
Mar. 29	Read second time and amended.
Mar. 28	From committee: Amend, do pass as amended, and re-refer to Com. on H. & C.D. (Ayes 5. Noes 2.) (March 28).
Mar. 26	Re-referred to Com. on L. GOV.
Mar. 22	From committee chair, with author's amendments: Amend, and re-refer to Com. on L. GOV. Read second time and amended.
Feb. 26	Referred to Coms. on L. GOV. and H. & C.D.
Feb. 1	From printer. May be heard in committee March 3.
Jan. 31	Read first time. To print.

AMENDED IN SENATE JUNE 19, 2008

AMENDED IN SENATE MAY 20, 2008

AMENDED IN SENATE MAY 5, 2008

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN ASSEMBLY APRIL 30, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 239

Introduced by Assembly Member DeSaulnier (Coauthors: Assembly Members Beall, Brownley, Leno, Parra, Portantino, Solorio, and Torrico)

January 31, 2007

An act to amend Sections 4990, 4990.18, 4990.30, and 4990.38 of, and to add Chapter 10.5 (commencing with Section 4700) to Division 2 of, the Business and Professions Code, *and to add Section 11776.5 to the Health and Safety Code*, relating to alcoholism and drug abuse counselors.

LEGISLATIVE COUNSEL'S DIGEST

AB 239, as amended, DeSaulnier. Alcoholism and drug abuse counselors.

Existing law provides for the licensure and regulation of marriage and family therapists, social workers, and educational psychologists by the Board of Behavioral Sciences, in the Department of Consumer $AB 239 \qquad \qquad -2 -$

Affairs. Existing law provides that the Board of Behavioral Sciences consists of 11 members, makes that provision inoperative on July 1, 2009, and repeals it on January 1, 2010. Existing law declares the intent of the Legislature that the board employ its resources for, among other things, the licensure of marriage and family therapists, clinical social workers, and educational psychologists. Existing law authorizes a licensed marriage and family therapist and a marriage and family therapist intern, among others, whose license or registration has been revoked to petition the board for reinstatement or modification of the penalty. Existing law also authorizes the board to deny an application or suspend or revoke a license or registration issued under the provisions it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency, on a license, certificate, or registration to practice marriage and family therapy, clinical social work, educational psychology, or any other healing art.

This bill would enact the Alcoholism and Drug Abuse Counselors Licensing Law and provide for the licensure and regulation of alcoholism and drug abuse counselors by the Board of Behavioral Sciences. The bill would, after January 1, 2011, add one licensed alcoholism and drug abuse counselor to the board, to be appointed by the Governor. The bill would also add an additional public member to the board, to be appointed by the Governor. The bill would require the board and the Department of Alcohol and Drug Programs to enter into a memorandum of understanding to address how each agency will work with the other to plan, oversee, and regulate alcohol and drug treatment, as specified. The bill would declare the intent of the Legislature that the board also employ its resources for the licensure of alcoholism and drug abuse counselors and would authorize a licensed alcoholism and drug abuse counselor whose license has been revoked to petition the board for reinstatement or modification of the penalty. The bill would authorize the board to deny an application or suspend or revoke an alcoholism and drug abuse counselor license for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency. The bill would enact various related provisions regarding the practice of licensed alcoholism and drug abuse counselors, including, but not limited to, licensing requirements, scope of practice, conditions for license renewals, and grounds for revocation or suspension of a license. The bill would authorize the board to deny, suspend, or revoke a license if the applicant or licensee has been guilty

-3— AB 239

of unprofessional conduct and would specify that unprofessional conduct includes engaging in specified acts with a minor regardless of whether the act occurred prior to or after the time the registration or license was issued by the board, and would apply this provision to acts that occurred prior to the effective date of the bill. The bill would make it unlawful for an unlicensed person to, among other things, use the title of a licensed alcoholism and drug abuse counselor or engage in certain acts that constitute the practice of alcoholism and drug abuse counseling, as specified. The bill would exempt various persons from its provisions, including persons who engage in the practice of alcoholism and drug abuse counseling as an employee or volunteer at a facility or program administered, licensed or certified by a governmental agency or that contracts with a court, probation department, county jail, or the Department of Corrections and Rehabilitation to provide specified services. The bill would make a violation of any of these provisions a crime and would thereby impose a state-mandated local program.

The bill would authorize the board to impose various fees on licensed alcoholism and drug abuse counselors, as specified, which would be deposited in the Behavioral Sciences Fund and be made available to the board upon appropriation by the Legislature. The bill would require that startup funds to implement these provisions be derived, as a loan, from the reserve of that fund, subject to an appropriation by the Legislature, and would specify that the board shall not be required to implement these provisions until those funds are appropriated.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- SECTION 1. The Legislature finds and declares all of the following:
- 3 (a) The practice of alcoholism and drug abuse counseling affects
- 4 the public health, safety, and welfare, and is, therefore, subject to
- 5 regulation in the public's interest.

AB 239 —4—

(b) California's alcoholism and drug abuse treatment system is in crisis. The lack of adequate standards and accountability undermines consumer confidence in alcoholism and drug abuse counselor services in both the public and private arenas.

- (c) The practice of alcoholism and drug abuse counseling is regulated in 30 states by way of mandated licensure or certification. California continues to fall behind these states in oversight and required training and education.
- (d) National standards of education for alcoholism and drug abuse counselors require a minimum of 270 hours of education that is alcohol and other drug specific and 4,000 hours of experience. These national standards are consistent in 48 states. California standards are fragmented at best and are considered by many experts to be the lowest in the nation.
- (e) The State Department of Alcohol and Drug Programs implemented modest counselor certification regulations in 2005. These minimal state regulations do not, however, apply to private practitioners treating alcoholism and drug abuse.
- (f) The lack of licensure of alcoholism and drug abuse counselors in California has severely limited the growth of private sector treatment options, thereby leaving the state as the first provider of care rather than the safety net.
- (g) Alcoholism and drug abuse heavily impact a majority of state services, including corrections, welfare, hospital and emergency room care, and education, costing California billions of dollars every year.
- (h) Deaths and injuries resulting from incompetent care of those suffering from alcoholism or drug abuse have reached record levels.
- (i) Unlicensed persons are currently treating alcoholism and drug abuse cases without a defined scope of practice and without making appropriate referrals to other trained professionals for underlying and co-occurring issues.
- (j) Therefore, it is the intent of the Legislature to provide for licensure of alcoholism and drug abuse counselors in this state by enacting the Alcoholism and Drug Abuse Counselors Licensing Law.
- (k) It is further the intent of the Legislature that the licensure provisions set forth in this act be applicable only to alcoholism and drug abuse counselors practicing in private practice settings and not to those practicing in residential facilities or outpatient

5 AB 239

1 programs administered, certified, or licensed by a governmental 2 agency.

SEC. 2. Chapter 10.5 (commencing with Section 4700) is added to Division 2 of the Business and Professions Code, to read:

Chapter 10.5. Alcoholism and Drug Abuse Counselors

- 4700. This chapter shall be known and may be cited as the Alcoholism and Drug Abuse Counselors Licensing Law.
- 4701. The Board of Behavioral Sciences shall administer and enforce this chapter.
- 4702. For purposes of this chapter, the following terms have the following meanings:
 - (a) "Board" means the Board of Behavioral Sciences.
- (b) "IC&RC" means the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc., an organization comprised of domestic and international organizations involved in credentialing and licensing alcohol and other drug abuse counselors.
- (c) "Licensed alcoholism and drug abuse counselor I" means a person licensed by the board to practice alcoholism and drug abuse counseling under clinical supervision.
- (d) "Licensed alcoholism and drug abuse counselor II" means a person licensed by the board to conduct an independent practice of alcoholism and drug abuse counseling and to provide supervision to other alcoholism and drug abuse counselors.
- (e) "Applicant" means an unlicensed person who has completed the education requirements for licensure, as specified in this chapter, and is currently in the examination process.
- (f) "Experience" means completed work within the practice of alcoholism and drug abuse counseling, as defined in subdivision (a) of Section 4720.
- (g) "Clinical supervision" means the ongoing process of direct review of a supervisee for the purpose of ensuring administrative accountability, enhancing training and education, and ensuring quality control. The direct review shall be performed by a qualified supervisor who monitors the performance of acts within the practice of alcoholism and drug abuse counseling, as defined in subdivision (a) of Section 4720, and provides regular consultation,

AB 239 — 6 —

 guidance, and instruction with respect to the counseling skills and competencies of the supervisee.

- (h) "Advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.
- (i) "Student" means an unlicensed person who is currently enrolled in a course of education that is designed to qualify him or her for licensure under this chapter and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying educational program.
- 4703. In order to carry out the provisions of this chapter, the board shall do, but shall not be limited to, all of the following:
 - (a) Adopt rules and regulations to implement this chapter.
 - (b) Issue licenses beginning January 1, 2011.
- (c) Take disciplinary action against a licensee where appropriate, including, but not limited to, reprimand or probation, suspension, or revocation of the license, or imposition of fines or fees.
 - (d) Establish continuing education requirements for licensees.
- (e) Establish procedures for the receipt, investigation, and resolution of complaints against licensees.
- (f) Establish criteria to determine whether the curriculum of an educational institution satisfies the licensure requirements imposed by this chapter.
- (g) Establish parameters of unprofessional conduct for licensees that are consistent with generally accepted ethics codes for the profession.
- (h) Establish standards of competency for licensees that are consistent with generally accepted national standards for the practice of alcoholism and drug abuse counseling.
- (i) Establish reinstatement procedures for an expired or revoked license.
- 38 (j) Establish supervision and supervisory requirements for 39 students.

7 AB 239

(k) Establish supervision and supervisory requirements for supervisors of a licensed alcoholism and drug abuse counselor I performing services in a private practice setting.

- (*l*) Establish qualifications and responsibilities for licensed professionals who receive client referrals through the referral process described in Section 4723.
- (m) Establish coursework required to obtain a license, including, but not limited to, coursework in law and ethics, psychopathology, methodology treatments, cultural diversity, psychopharmacology, anger management and domestic violence, interviewing techniques, and conflict resolution.
- 4704. (a) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Act (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).
 - (b) This chapter shall not apply to the following:
- (1) A student, provided that the activities and services he or she performs as a student, consistent with Section 4713, constitute part of the student's supervised course of study and provided that, when performing those services, he or she is designated by the title "student." A student may gain hours of experience outside the required practicum.
- (2) A person who engages in the practice of alcoholism and drug abuse counseling, as defined in Section 4720, if the person is otherwise qualified to engage in that practice and is employed or volunteers at a facility or program administered, licensed, or certified by a governmental agency, including, but not limited to, the State Department of Alcohol and Drug Programs or the Department of Corrections and Rehabilitation.
- (3) A person who is a member of a peer or self-help group who performs peer group or self-help activities if the person does not use a title stating or implying that he or she is a licensed alcohol and drug abuse counselor or any other designation listed in subdivision (a) of Section 4721.1.

AB 239 —8—

(4) A cleric or other religious leader who provides advice and guidance to members of his or her congregation or order free of charge.

- (5) A director, officer, or staff member of a program described in Section 8001 of the Penal Code.
- (6) A person who engages in the practice of alcohol and drug abuse counseling, as defined in Section 4720, if the person is otherwise qualified and is employed by, or volunteers at, a facility or program that contracts with a court, probation department, county jail, or the Department of Corrections and Rehabilitation to provide services for persons in a drug court program or a deferred entry of judgment or preguilty plea program, as described in Chapter 2.5 (commencing with Section 1000) of Title 6 of Part 2 of the Penal Code.
- (7) A person who provides treatment or counseling to persons who were directed to engage in treatment or counseling pursuant to a court order.
- (c) A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.
- (d) A licensed alcoholism and drug abuse counselor who conducts a private practice under a fictitious business name shall not use any name that is false, misleading, or deceptive and shall inform his or her clients, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.
- (e) A licensee shall give written notice to the board of a name change within 30 days after each change, giving both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.
- 4705. (a) On and after January 1, 2011, and until December 31, 2011, the
- 4705. (a) The board shall issue an alcoholism and drug abuse counselor II license to a person who meets all of the following requirements:
- 36 (1) Completes an application for a license, *and submits the* 37 *application to the board between January 1, 2011, and December* 38 *31, 2011.*
 - (2) Pays the fees prescribed by the board.

9 **AB 239**

(3) Obtains current certification by an organization recognized by the State Department of Alcohol and Drug Programs and accredited by the National Commission on Certifying Agencies (NCCA).

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- (4) Is a high school graduate or possesses a general education development equivalent.
- (5) Completes at least 315 hours of classroom instruction in alcoholism and drug abuse counseling, including, but not limited to, a 45-hour classroom practicum course offered by a provider approved by the board and the other courses prescribed by the board pursuant to subdivision (m) of Section 4703.
- (6) Completes at least 255 hours of fieldwork in a clinically supervised practicum.
- (7) Passes the written examination required pursuant to Section 4709.
- (8) Completes at least six hours of education in supervision techniques.
- (9) Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This education may include, but shall not be limited to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.
- (10) Completes at least 10 hours of education in the recognition of co-occurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient Placement Criteria, to determine the most appropriate level of care for a client and a client's eligibility for admission to a particular alcoholism and drug abuse treatment program.
 - (11) Produces documentation of either of the following:
- (A) At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services, including 4,000 hours of experience in clinical supervision.
- (B) At least 10,000 hours of experience in direct alcoholism and drug abuse counseling services and current licensure in a mental health field requiring at least a master's degree.
- (b) The term of a license issued under this section is two years. 40 The license may be renewed upon application to the board, showing

AB 239 -10-

proof of completion of the required continuing education, and payment of the renewal fee prescribed by the board. If a person licensed under this section fails to renew the license on or before the expiration date of the license, the person shall be required to meet the requirements listed in subdivision (a) of Section 4706 in order to obtain a new license.

- 4706. (a) On and after January 1, 2012, the board shall issue an alcoholism and drug abuse counselor II license to a person who meets all of the following requirements:
 - (1) Completes an application for a license.
 - (2) Pays the fees prescribed by the board.
- (3) Passes the written examination required pursuant to Section 4709.
- (4) Holds a master's degree in alcoholism and drug abuse counseling, or a clinically-focused mental health field approved by the board, obtained from a school, college, or university that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education. The degree shall include at least 18 semester units, or equivalent quarter units, in counseling or counseling-related subjects and 255 hours of supervised practicum experience.
- (5) Completes at least 315 hours of classroom instruction in alcoholism and drug abuse counseling, including, but not limited to, a 45-hour classroom practicum course offered by a provider approved by the board and the other courses prescribed by the board pursuant to subdivision (m) of Section 4703.
- (6) Completes at least six hours of education in supervision techniques.
- (7) Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This education may include, but shall not be limited to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.
- (8) Completes at least 10 hours of education in the recognition of cooccurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient

-11- AB 239

Placement Criteria, to determine the most appropriate level of care for the client and eligibility for admission to a particular alcoholism and drug abuse treatment program.

- (9) Obtains at least 6,000 hours of experience in direct alcoholism and drug abuse counseling services.
- (b) The term of a license issued under this section is two years. The license may be renewed upon application to the board, showing proof of completion of the required continuing education, and payment of the renewal fee prescribed by the board.
- 4707. (a) On and after January 1, 2011, and until December 31, 2011, the
- 4707. (a) The board shall issue an alcoholism and drug abuse counselor I license to a person who meets all of the following requirements:
- (1) Completes an application for a license, and submits the application to the board between January 1, 2011, and December 31, 2011.
 - (2) Pays the fees prescribed by the board.
- (3) Obtains current certification by an organization recognized by the State Department of Alcohol and Drug Programs and accredited by the National Commission on Certifying Agencies (NCCA).
- (4) Is a high school graduate or possesses a general education development equivalent.
- (5) Completes at least 315 hours of classroom instruction in alcoholism and drug abuse counseling, including, but not limited to, a 45-hour classroom practicum course offered by a provider approved by the board.
- (6) Completes at least 255 hours of fieldwork in a clinically supervised practicum.
- (7) Completes at least 4,000 hours of clinically supervised experience.
- 33 (8) Passes the written examination required pursuant to Section 34 4709.
 - (b) The term of a license issued under this section is two years. The license may be renewed upon application to the board, showing proof of completion of the required continuing education, and payment of the renewal fee prescribed by the board. If a person licensed under this section fails to renew the license on or before the expiration date of the license, the person shall be required to

AB 239 — 12 —

1 meet the requirements listed in subdivision (a) of Section 4708 in 2 order to obtain a new license.

- 4708. (a) On and after January 1, 2012, the board shall issue an alcoholism and drug abuse counselor I license to a person who meets all of the following requirements:
 - (1) Completes an application for a license.
 - (2) Pays the fees prescribed by the board.
- (3) Holds a bachelor's degree from a school, college, or university that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education.
- (4) Completes a minimum of 315 hours of classroom instruction in alcoholism and drug abuse counseling, including, but not limited to, a 45-hour classroom practicum course offered by a provider approved by the board and the courses prescribed by the board pursuant to subdivision (m) of Section 4703.
- (5) Completes a minimum of 255 hours of fieldwork in a clinically supervised practicum.
- (6) Completes at least 4,000 hours of clinically supervised experience.
- (7) Passes the written examination required pursuant to Section 4709.
- (b) The term of a license issued under this section is two years. The license may be renewed upon application to the board, showing proof of completion of the required continuing education, and payment of the renewal fee prescribed by the board.
- 4709. The board shall evaluate the written examination offered by the IC&RC prior to its use to determine whether it meets the criteria required by Section 139 and is adequate at measuring the skills and knowledge required to deliver safe and effective alcoholism and drug abuse counseling services. If the examination offered by the IC&RC does not meet the criteria of Section 139, the board shall develop an alternate or supplemental examination. However, the board may develop an alternate or supplemental examination if it otherwise deems necessary. If an alternate or supplemental examination is developed, the written examination offered by the IC&RC shall be used until that alternate or supplemental examination is adopted. Examinations shall be given

-13- AB 239

at least twice a year at a time and place and under supervision as the board may determine.

- 4710. (a) An applicant who fails an examination may take subsequent examinations upon payment of the required examination fee.
- (b) The board may establish the criteria under which an applicant may take subsequent examinations.
- 4711. The board may issue an alcoholism and drug abuse counselor I or II license to any person who, at the time of application, has held for at least two years a valid license issued by a board of alcoholism and drug abuse counseling, or corresponding authority, of any state, if the education and supervised experience requirements are substantially equivalent to the respective requirements for an alcoholism and drug abuse counselor I or II license imposed under this chapter and the person successfully completes the written examination required pursuant to Section 4709, and pays the required fee.
- 4712. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter.
- (b) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter.
- 4713. All hours of experience gained as a student shall be coordinated between the school and the site where the hours are being accrued. The school shall approve each site and shall have a written agreement with each site that details each party's responsibilities, including the methods by which supervision shall be provided. The agreement shall provide for regular progress reports and evaluations of the student's performance at the site. If an applicant has gained hours of experience while enrolled in a school other than the one that confers the qualifying degree, it shall be the applicant's responsibility to provide to the board satisfactory evidence that those hours of student experience were gained in compliance with this chapter.
- 4720. (a) A licensee may engage in the practice of alcoholism and drug abuse counseling. For purposes of this chapter, the "practice of alcoholism and drug abuse counseling" means performing any of the following services for the purpose of treating alcoholism and drug abuse:

AB 239 — 14 —

(1) Screening. The process by which a client is determined to be eligible for admission to a particular alcoholism and drug abuse treatment program.

- (2) Initial intake. The administrative and initial assessment procedures for admission to an alcoholism and drug abuse treatment program. Assessment shall not include psychological testing intended to measure or diagnose mental illness.
- (3) Orientation. Describing to the client the general nature and goals of the alcoholism and drug abuse treatment program, including rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program.
- (4) Alcoholism and drug abuse counseling, including individual, group, and significant others. The utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, considerations of alternative solutions and decisionmaking as each relates to substance abuse. Counseling shall be limited to assisting a client in learning more about himself or herself for the purposes of understanding how to effectuate clearly perceived, realistically defined goals related to abstinence. Counseling is limited to assisting the client to learn or acquire new skills that will enable the client to cope and adjust to life situations without the use of substances.
- (5) Case management. Activities that bring services, agencies, resources, or individuals together within a planned framework of action toward achievement of established goals. It may involve liaison activities and collateral contacts.
- (6) Crisis intervention. Those services that respond to an alcohol or drug abuser's needs during acute emotional or physical distress, including, but not limited to, referrals for assessment of the client's need for additional psychological or medical treatment for client behaviors that signal risk or prolonged distress.
- (7) Assessment. Those procedures by which a counselor or program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the alcoholism and drug abuse treatment plan.
- (8) Treatment planning. The process by which the counselor and the client identify and rank problems needing resolution, establish agreed-upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized.

15 AB 239

(9) Client education. Providing information to individuals and groups concerning alcohol and other drugs of abuse and the services and resources available.

- (10) Referral. Identifying the needs of the client that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available.
- (11) Reports and recordkeeping. Documenting the client's progress in achieving the client's goals.
- (12) Consultation with other professionals with regard to client treatment or services. Communicating with other professionals to ensure comprehensive, quality care for the client.
- (b) A licensee may perform the acts listed in this section only for the purpose of treating alcoholism and drug abuse.
- 4721. (a) The scope of practice for a licensed alcoholism and drug abuse counselor II shall include both of the following:
 - (1) The services described in subdivision (a) of Section 4720.
- (2) Clinical supervision of licensed alcoholism and drug abuse counselors I.
- (b) The scope of practice for a licensed alcoholism and drug abuse counselor I shall include the services described in subdivision (a) of Section 4720.
- (1) A licensed alcoholism and drug abuse counselor I performing the services described in subdivision (a) of Section 4720 in a private practice setting shall, pursuant to Section 4722, do so under the supervision of a licensed alcoholism and drug abuse counselor II or other clinical supervisor, as defined in Section 4722 or as deemed appropriate by the board.
- (2) A licensed alcoholism and drug abuse counselor I may perform the acts listed in subdivision (a) of Section 4720 in hospitals, agencies, or other facilities where alcoholism or drug abuse services are delivered without supervision in accordance with the laws and regulations governing the facilities.
- 4721.1. (a) (1) It shall be unlawful for a person to do any of the following unless he or she is licensed pursuant to this chapter:
- (A) Engage in any of the acts described in paragraph (3), (4), (6), (7), (8), (10), (11), or (12) of subdivision (a) of Section 4720 with regard to alcoholism and drug abuse.
- (B) Operate a private practice in alcoholism and drug abuse counseling or represent himself or herself as, or use the title or designation of, alcoholism counselor, alcohol counselor, drug

AB 239 —16—

counselor, alcohol and drug counselor, alcoholism and drug counselor, licensed clinical alcohol and drug counselor, certified alcohol and drug counselor, substance abuse counselor, chemical dependency counselor, addictions counselor, certified addictions counselor, certified addictions specialist or chemical dependency supervisor, or any abbreviations for the above titles.

- (C) Make use of any title, words, letters, or abbreviations that may reasonably be confused with a designation provided by this chapter to denote a standard of professional or occupational competence.
- (2) It shall be unlawful for a person to represent himself or herself by the title licensed alcoholism and drug abuse counselor I or II, LADC I, or LADC II unless he or she holds the corresponding license pursuant to this chapter.
- (b) Nothing in this chapter shall prevent a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000), a psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900), a marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980), or a clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4991) from providing services within their scope of practice. However, these persons shall not use a title stating or implying that they are licensed alcohol and drug abuse counselors or any other designation listed in subdivision (a) unless they are licensed pursuant to this chapter.
- (c) A licensee shall not engage in the practice of psychology, as defined in Section 2903, the practice of marriage and family therapy, as defined in Section 4980.02, or the practice of clinical social work, as defined in Section 4996.2, unless he or she is accordingly licensed to engage in that practice.
- 4722. (a) A licensed alcoholism and drug abuse counselor I performing services in a private practice setting shall be supervised by a clinical supervisor, which may include licensed alcoholism and drug abuse counselors II, marriage and family therapists, licensed clinical social workers, licensed psychologists, licensed physicians and surgeons certified in psychiatry by the American Board of Psychiatry and Neurology, or physicians and surgeons who have completed a residency but are not yet board certified in psychiatry. All clinical supervisors of licensed alcoholism and

17 AB 239

drug abuse counselors I shall have at least 4,000 hours of direct treatment experience in substance abuse and addiction.

- (b) A clinical supervisor of an alcoholism and drug abuse counselor I shall have a written agreement with the supervisee describing the planned hours of practice, supervision schedule, nature of work assignments, and other specifications that the supervisor reasonably deems appropriate to the supervisee's level of training.
- (c) A clinical supervisor shall evaluate a supervisee at least annually, emphasizing his or her strengths and shortcomings as well as areas in which the supervisee should pursue additional knowledge or skill development. These evaluations shall be signed by both the supervisor and the supervisee and copies shall be retained by both for seven years. The board may request copies of these evaluations.
- (d) Clinical supervision conducted pursuant to this section shall include at least 50 hours of face-to-face supervision per year, averaging one hour per week. As necessary, clinical supervisors shall make themselves available to each supervisee for face-to-face consultations or consultations via telephone or other electronic means.
- (e) A clinical supervisor shall be limited to no more than five supervisees at a time, unless specifically authorized by the board to supervise additional supervisees.
- (f) An alcoholism and drug abuse counselor I shall conduct business in the same work setting as their clinical supervisor subject to regulation by the board.
- (g) An alcoholism and drug abuse counselor I shall disclose all of the following to a client prior to performing a professional service:
- (1) That he or she is licensed by the State of California and under the supervision of a licensed alcoholism and drug abuse counselor II or a licensed mental health professional.
- (2) That he or she will refer the client to another licensed professional within 14 days pursuant to Section 4723.
 - (3) The extent of his or her education or training.
- 4723. (a) (1) Licensed alcoholism and drug abuse counselors providing services in a private practice setting shall refer all clients for an initial assessment to one of the following professionals

AB 239 — 18 —

1 within 14 days of intake to assess any co-occurring needs or 2 disorders:

- 3 (A) A marriage and family therapist.
 - (B) A licensed clinical social worker.
- 5 (C) A licensed psychologist.

- (D) A licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.
- (E) A licensed physician and surgeon who has completed a residency but is not yet board certified in psychiatry.
 - (F) Any other licensed professional approved by the board.
- (2) Referrals made pursuant to this subdivision shall be documented in the client's chart.
- (3) A professional receiving a referral under this section shall, with the written consent of the client, provide to the referring alcoholism and drug abuse counselor a signed, written report that includes assessment results and treatment and referral recommendations. The referring alcoholism and drug abuse counselor shall place this report in the client's chart.
- (b) A licensee shall, in an effective and safe fashion, demonstrate the ability to refer patients in need of services that go beyond the scope of practice of alcoholism and drug abuse counseling. The licensee shall maintain current referral information for the services he or she is prohibited from providing under subdivision (c) of Section 4721.1.
- (c) During the course of the screening and intake process, a licensed alcoholism and drug abuse counselor, working within his or her scope of practice, shall determine the level of care most appropriate for the client and the need for integrated treatment in the presence of medical, emotional, and behavioral conditions. This determination shall be based on the client's state of intoxication or withdrawal, the presence of other conditions, relapse potential, the nature of the recovery environment, and other client issues, including, but not limited to, legal, financial, or housing issues.
- 4724. The board may deny a license, or may suspend or revoke a license, if the applicant or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to, the following:
- 39 (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee under this chapter.

-19- AB 239

1 The record of conviction shall be conclusive evidence only of the 2 fact that the conviction occurred. The board may inquire into the 3 circumstances surrounding the commission of the crime in order 4 to fix the degree of discipline or to determine if the conviction is 5 substantially related to the qualifications, functions, or duties of a 6 licensee under this chapter. A plea or verdict of guilty or a 7 conviction following a plea of nolo contendere made to a charge 8 substantially related to the qualifications, functions, or duties of a 9 licensee under this chapter shall be deemed to be a conviction 10 within the meaning of this section. The board may order any license 11 suspended or revoked, or may deny a license when the time for 12 appeal has elapsed or the judgment of conviction has been affirmed 13 on appeal, or when an order granting probation is made suspending 14 the imposition of sentence, irrespective of a subsequent order under 15 Section 1203.4 of the Penal Code allowing the person to withdraw 16 a plea of guilty and enter a plea of not guilty, or setting aside the 17 verdict of guilty, or dismissing the accusation, information, or 18 indictment. 19

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license, or by a licensee in support of an application for licensure.

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- (c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license. The board shall deny an application for a license or revoke the license of any person who uses or offers to use drugs in the course of performing alcoholism and drug abuse counseling services.
- (d) Gross negligence or incompetence in the performance of alcoholism and drug abuse counseling services.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- 39 (f) Misrepresentation as to the type or status of a license held 40 by the person, or otherwise misrepresenting or permitting

AB 239 -20-

misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

- (g) Impersonation of another by a licensee or applicant for a license or allowing any other person to use his or her license.
- (h) Aiding or abetting, or employing, directly or indirectly, any unlicensed person to engage in conduct for which a license is required under this chapter.
- (i) Intentionally or recklessly causing physical or emotional harm to a client.
- (j) The commission of a dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.
- (k) Engaging in sexual relations with a client, or a former client within two years following termination of services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an alcoholism and drug abuse counselor.
- (*l*) Performing, or holding oneself out as being able to perform, or offering to perform, any professional services beyond the scope of the license authorized by this chapter.
- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

__21__ AB 239

(p) Advertising in a manner that is false, misleading, or deceptive.

- (q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.
- (r) Any conduct in the supervision of an unlicensed employee, student, or volunteer by a licensee that violates this chapter or any rules or regulations adopted by the board.
- (s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.
- (t) Receipt of credible justification that a licensed alcoholism and drug abuse counselor is performing services outside of his or her scope of practice or is negligent in making referrals for co-occurring disorders.
- (u) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(u)

- (v) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.
- (2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

AB 239 — 22 —

4725. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

- (b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).
- (c) The limitation provided for by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.
- (d) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (e) shall be tolled until the minor reaches the age of majority. However, if the board discovers an alleged act of sexual contact with a minor under Section 261, 286, 288, 288.5, 288a, or 289 of the Penal Code after the limitations periods described in this subdivision have otherwise expired, and there is independent evidence that corroborates the allegation, an accusation shall be filed within three years from the date the board discovers that alleged act.
- (e) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action, or within 10 years after the act or omission alleged as the grounds for disciplinary action occurs, whichever occurs first.
- (f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.
- (g) For purposes of this section, "discovers" means the later of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

__ 23 __ AB 239

(1) The date the board received a complaint or report describing the act or omission.

- (2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.
- (3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.
- 4726. (a) An applicant for a license under this chapter shall consent to a criminal history background check. Refusal to consent to the criminal history background check constitutes grounds for denial of the license.
- (b) Before issuing a license to an applicant, the board shall ensure that the state and national criminal history of the applicant is reviewed.
- (c) If an applicant's criminal history background check reveals one or more convictions, the applicant shall not automatically be denied a license. With regard to each conviction, the board shall consider all of the following factors in determining whether to issue a license:
 - (1) The level of seriousness of the crime committed.
 - (2) The date that the crime was committed.
 - (3) The age of the applicant at the time of conviction.
- (4) The circumstances surrounding the commission of the crime, if known.
- (5) The nexus between the criminal conduct and the duties of a licensed alcoholism and drug abuse counselor.
- (6) The applicant's prison, jail, probation, parole, rehabilitation, and employment records since the date the crime was committed.
- (d) If the board denies a license based on an applicant's criminal history background check, the board may disclose to the applicant the information contained in the background check that is relevant to the denial.
- (e) The applicant shall have the right to appear before the board to appeal a decision made by the board pursuant to this section.
- 4727. The board shall renew an unexpired license of a licensee who meets the following qualifications:
- (a) Has applied for renewal on a form prescribed by the board and paid the required renewal fee.

AB 239 — 24 —

(b) Has certified compliance with continuing education requirements imposed by Section 4728.

- (c) Has notified the board whether he or she has been subject to, or whether another board has taken, disciplinary action since the last renewal.
- 4728. (a) The board shall not renew any license pursuant to this chapter unless the licensee certifies to the board, on a form prescribed by the board, that he or she has completed, during the previous two years, not less than 60 hours of continuing education coursework that is offered by a board-approved provider and that is in or relevant to the field of alcoholism and drug abuse counseling. The board may require licensees to take specific coursework, including, but not limited to, coursework concerning supervisory training, as a condition of license renewal.
- (b) The board shall have the right to audit the records of any licensee to verify the completion of the continuing education requirement. Licensees shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.
- (c) The continuing education shall be obtained from one of the following sources:
- (1) A school, college, or university accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education. Nothing in this section shall be construed as requiring coursework to be offered as part of a regular degree program.
- (2) Other continuing education providers approved by the board, including, but not limited to, a certified counseling association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association.
- (d) The board shall establish, by regulation, a procedure for approving providers of continuing education courses. The board may refuse to approve continuing education credit for courses offered by providers who fail to comply with the requirements of this section or any regulation adopted pursuant to this section.
- (e) Training, education, and coursework offered by approved providers shall incorporate one or more of the following:

25 AB 239

(1) Aspects of the discipline that are fundamental to the understanding or the practice of alcoholism and drug abuse counseling.

- (2) Aspects of the discipline of alcoholism and drug abuse counseling in which significant recent developments have occurred.
- (3) Aspects of other disciplines that enhance the understanding or the practice of alcoholism and drug abuse counseling.
- (f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions of this section.
- 4729. The board may renew an expired license for a former licensee who meets the following qualifications:
- (a) Applies for renewal on a form prescribed by the board within three years of the expiration date of the license.
- (b) Pays the renewal fees that would have been paid if the license had not been delinquent.
 - (c) Pays all delinquency fees.

- (d) Certifies compliance with continuing education requirements.
- (e) Notifies the board whether he or she has been subject to, or whether another board has taken, disciplinary action since the last renewal.
- 4730. A license that is not renewed within three years after its expiration may not be renewed, restored, reinstated, or reissued thereafter, but the former licensee may apply for and obtain a new license if all of the following are satisfied:
- (a) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.
- (b) He or she pays the fees that would be required if he or she were applying for a license for the first time.
- (c) He or she meets the current requirements for licensure as a licensed alcoholism and drug abuse counselor II or a licensed alcoholism and drug abuse counselor I under Section 4706 or 4708, respectively.
- 4731. A suspended license is subject to expiration and may be renewed as provided in this chapter, but the renewal does not entitle the licensee, while it remains suspended and until it is reinstated, to engage in the activity to which the license relates, or in any

AB 239 — 26 —

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other activity or conduct in violation of the order or judgment by which it was suspended.

4732. A revoked license is subject to expiration as provided in this chapter, but it may not be renewed. If it is reinstated after its expiration, the licensee shall, as a condition precedent to its reinstatement, pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

4733. A licensed alcoholism and drug abuse counselor may apply to the board to request that his or her license be placed on inactive status. A licensee who holds an inactive license shall pay a biennial fee of one-half of the active renewal fee and shall be exempt from continuing education requirements specified in subdivision (a) of Section 4728, but shall otherwise be subject to this chapter and shall not engage in the practice of alcoholism and drug abuse counseling in this state. A licensee on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure may, upon his or her request, have his or her license to practice alcoholism and drug abuse counseling placed on active status. A licensee requesting his or her license to be placed on active status at any time between a renewal cycle shall pay the remaining one-half of the renewal fee. A licensee requesting to reactivate from an inactive status whose license will expire less than one year from the date of the request shall be required to complete 30 hours of continuing education for license renewal. A licensee requesting to reactivate from an inactive status whose license will expire more than one year from the date of the request shall be required to complete 60 hours of continuing education for license renewal.

4734. The board may deny a license whenever it appears that an applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 of Division 1 shall apply to any denial of a license pursuant to this section.

4735. (a) The board may place a licensee on probation under the following circumstances:

(1) Instead of, or in addition to, any order of the board suspending or revoking the license of the licensee.

__27__ AB 239

(2) Upon the issuance of a license to an individual who has engaged in unprofessional conduct, but who has otherwise completed all licensure requirements relating to education, training, and experience.

- (3) As a condition upon the reissuance or reinstatement of any license that has been suspended or revoked by the board.
- (b) The board may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to this section. The cost of probation or monitoring may be ordered to be paid by the licensee or applicant.
- (c) The board, in its discretion, may require any licensee who has been placed on probation, or whose license has been suspended, to obtain additional professional training, and to pass an examination upon completion of that training, and to pay any necessary examination fee. The examination may be written or a practical or clinical examination.
- 4736. (a) A licensed alcoholism and drug abuse counselor whose license has been revoked or suspended, or who has been placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering the disciplinary action, or if the order of the board, or any portion of it, is stayed by the board itself, or by the superior court, from the date the disciplinary action is actually implemented in its entirety:
- (1) At least three years for reinstatement of a license that was revoked for unprofessional conduct, except that the board may, in its sole discretion at the time of adoption, specify in its order that a petition for reinstatement may be filed after two years.
- (2) At least two years for early termination of any probation period of three years or more.
- (3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.
- (b) The petition may be heard by the board itself, or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code. The board shall give notice to the Attorney General of the filing of the petition. The

AB 239 -28-

petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition. The board, when it is hearing the petition itself, or an administrative law judge sitting in for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.

- (c) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate.
- (d) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4737. Where a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board.
- (e) The board may take action with respect to the proposed decision and petition as it deems appropriate.
- (f) The petition shall be on a form provided by the board, and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order.
- (g) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.

-29- AB 239

(h) The petition shall be verified by the petitioner, who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.

- (i) The board may delegate to its executive officer authority to order investigation of the contents of the petition, but in no case, may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.
- (j) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.
- (k) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole, or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.
- (*l*) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.
- 4737. The board may deny an application, or may suspend or revoke a license issued under this chapter, for any of the following: bases listed in subdivisions (a) to (c), inclusive.
- (a) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States, or by any other governmental agency, on a license, certificate, or registration to practice alcoholism and drug abuse counseling, or any other healing art, shall constitute unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.
- (b) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a marriage and family therapist, clinical social worker, or educational psychologist shall also constitute grounds for disciplinary action for unprofessional conduct against the licensee under this chapter.

AB 239 -30-

(c) Written documentation from the State Department of Alcohol and Drug Programs demonstrating that the department has ruled that a certification should be revoked by a private certifying organization.

4738. The board shall revoke any license issued under this chapter upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4739. The proceedings conducted under this chapter shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

4739.5. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both.

- 4740. (a) The board shall assess fees for applications, examinations, licensure, renewals, background checks, and other items in amounts sufficient to recover, but not exceed, all administrative, loan, and operating expenses related to this chapter as projected for the fiscal year commencing on the date the fees become effective. The fees collected pursuant to this chapter shall be deposited in the Behavioral Sciences Fund and, upon appropriation by the Legislature, shall be available to the board for carrying out and enforcing this chapter.
- (b) Notwithstanding subdivision (a), neither the licensure fee nor the renewal fee shall exceed three hundred dollars (\$300).
- (c) Startup funds to implement this chapter shall be derived, as a loan, from the reserve of the Behavioral Sciences Fund, subject to an appropriation by the Legislature in the annual Budget Act. That loan shall be repayed when sufficient fees have been collected pursuant to subdivision (a). The board shall not be required to implement this chapter until these startup funds have been appropriated.

-31 — AB 239

(d) The board may adjust the deadlines imposed by this chapter in the event that funds have not been appropriated as described in subdivision (a) or (c).

- 4741. (a) The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.
- (b) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.
- (c) The board shall keep any records as will reasonably ensure that funds expended in the administration of each licensing category shall bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.
- 4745. (a) The board shall enter into a memorandum of understanding with the Director of Alcohol and Drug Programs to address how each agency will work with the other to plan, oversee, and regulate alcohol and drug treatment within the State of California.
- (b) The memorandum of understanding entered into pursuant to subdivision (a) shall address how the agencies will consult and coordinate on the issuance of regulations, certification, or any other directives, guidance, or communications that affect the licensing of alcohol and drug counselors, as defined in this chapter, and the certifications conducted pursuant to Division 10.5 (commencing with Section 11750) of the Health and Safety Code. The memorandum of understanding shall identify circumstances under which the Director of Alcohol and Drug Programs may sit on the board, in an ex officio capacity and as otherwise permitted by law, to discuss items of shared or related responsibility. The provisions of the memorandum of understanding shall be guided by the shared goals of improving consumer protection and ensuring efficient use of resources devoted to treatment of chemical dependency, whether by entities and individuals subject to the regulation by the board or the Department of Alcohol and Drug Programs, or both.
- SEC. 3. Section 4990 of the Business and Professions Code is amended to read:

AB 239 -32-

1 4990. (a) There is in the Department of Consumer Affairs, a 2 Board of Behavioral Sciences that consists of the following 3 members:

- (1) Two state-licensed clinical social workers.
- (2) One state-licensed educational psychologist.
 - (3) Two state-licensed marriage and family therapists.
- (4) After January 1, 2011, one state-licensed alcoholism and drug abuse counselor.
 - (5) Seven public members.
- (b) Each member, except the seven public members, shall have at least two years of experience in his or her profession.
 - (c) Each member shall reside in the State of California.
- (d) The Governor shall appoint five of the public members and the six licensed members with the advice and consent of the Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.
- (e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever first occurs.
- (f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.
- (g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.
- (h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.
- (i) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.
- 39 SEC. 4. Section 4990.18 of the Business and Professions Code 40 is amended to read:

-33 — AB 239

4990.18. It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

- (a) The licensure of marriage and family therapists, alcoholism and drug abuse counselors, clinical social workers, and educational psychologists.
- (b) The development and administration of licensure examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.
- (c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.
 - (d) Consumer education.

- SEC. 5. Section 4990.30 of the Business and Professions Code is amended to read:
- 4990.30. (a) A licensed marriage and family therapist, marriage and family therapist intern, licensed alcoholism and drug abuse counselor, licensed clinical social worker, associate clinical social worker, or licensed educational psychologist whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the members of the board, the administrative law judge, and the Attorney General.
- (b) The licensee or registrant may file the petition on or after the expiration of the following timeframes, each of which commences on the effective date of the decision ordering the disciplinary action or, if the order of the board, or any portion of it, is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:
- (1) Three years for reinstatement of a license or registration that was revoked for unprofessional conduct, except that the board

AB 239 — 34 —

may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two years.

- (2) Two years for early termination of any probation period of three years or more.
- (3) One year for modification of a condition, reinstatement of a license or registration revoked for mental or physical illness, or termination of probation of less than three years.
- (c) The petition may be heard by the board itself or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code.
- (d) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.
- (e) The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition and an opportunity to present both oral and documentary evidence and argument to the board or the administrative law judge.
- (f) The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.
- (g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license or registration was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability.
- (h) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate but in no case may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.
- (i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.38. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and

-35-**AB 239**

submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.

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- (i) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.
- (k) The board may delegate to its executive officer authority to order investigation of the contents of the petition.
- (1) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.
- (m) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this
- SEC. 6. Section 4990.38 of the Business and Professions Code is amended to read:

4990.38. The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology, alcoholism or drug abuse counseling, or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it, constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment

-36-**AB 239**

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SEC. 7. Section 11776.5 is added to the Health and Safety 2 Code, to read:

11776.5. (a) The department shall enter into a memorandum of understanding with the Board of Behavioral Sciences to address how each agency will work with the other to plan, oversee, and regulate alcohol and drug treatment within the State of California.

- (b) The memorandum of understanding entered into pursuant to subdivision (a) shall address how the agencies will consult and coordinate on the issuance of regulations, certification, or any other directives, guidance, or communications that affect the licensing of alcohol and drug counselors, as defined in Chapter 10.5 (commencing with Section 4700) of Division 2 of the Business and Professions Code and the certifications conducted pursuant to this division. The memorandum of understanding shall identify circumstances under which the Director of Alcohol and Drug Programs may sit on the Board of Behavioral Sciences, in an ex officio capacity and as otherwise permitted by law, to discuss items of shared or related responsibility. The provisions of the memorandum of understanding shall be guided by the shared goals of improving consumer protection and ensuring efficient use of resources devoted to treatment of chemical dependency, whether by entities and individuals subject to the regulation by the Board of Behavioral Sciences or the department, or both. SEC. 7.
- 25 SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because 26 the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or 29 infraction, eliminates a crime or infraction, or changes the penalty 30 for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within 32 the meaning of Section 6 of Article XIIIB of the California 33 Constitution.





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To: Policy and Advocacy Committee Members Date: July 2, 2008

From: Tracy Rhine Telephone: (916) 574-7847

Legislation Analyst

Subject: Permissible Work Settings for Marriage and Family Therapist Trainees

CAMFT has requested that the board review the permissible work settings for a marriage and family Therapist (MFT) trainee.

<u>Background.</u> A MFT trainee is an unlicensed person who is currently enrolled in a master's or doctor's degree program that is designed to qualify him or her for licensure and who has completed no less than 12 semester units or 18 quarter units of coursework any qualifying degree program (Business and Professions Code § 4980.03(c)). A trainee must receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting (B&P Code § 4980.43(c)(1)).

<u>Current Law.</u> Subdivision (d) of Business and Professions Code section 4980.43 defines the permissible work setting for a MFT trainee.

- (d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:
 - (A) Lawfully and regularly provides mental health counseling or psychotherapy.
 - (B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
 - (C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
 - (2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

Additionally, subdivision (b) of the same section prohibits a trainee from gaining experience as an independent contractor.

History.

Legislation creating the Marriage, Family and Child Counselor (MFCC) licensing law took effect in 1964 (Chapter 1823, Stautes of 1963). The original statute did not include provisions relating to trainees and instead stated only that an individual must be licensed to practice marriage, family and child counseling in California.

In 1977, legislation added several sections to the licensing law that set forth parameters for gaining professional experience as an intern and trainee. Specifically Business and Professions Code section 17804.3 allowed an intern or trainee to gain professional experience:

"under the direct supervision of a licensed marriage, family and child counselor or professional corporation, a licensed clinical social worker or professional corporation, a licensed psychologist or professional corporation, a licensed physician certified in psychiatry or a professional corporation, or a medical clinic, medical hospital, governmental agency, school, or nonprofit agency providing the supervision as required by this chapter, provided that such experience is gained solely under the supervision or organization by which he or she is employed and that such functions are preformed solely as part of the position for which he or she is employed."

In 1983 legislation revised and recast the MFCC licensing law under Chapter 13 of Division 2 of the Business and Professions Code. The new act in Chapter 13 did not outline permissible work settings for trainees.

In 1986 section 4980.43 (b) was added to licensing law stipulating permissible work settings for trainees. Attached is a chronology of all amendments to this section from 1986 to present.

<u>Chronology of amendments relating to permissible work settings for trainees from 1986 – present.</u>

Chapter 1365, Statutes of 1986 –Added BPC section 4980.43 (b) to MFCC licensing law:

Experience as specified in Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college, or university, a nonprofit and charitable corporation, or a licensed health facility, if the experience is gained by the trainee solely as part of the position for which he or she is employed.

• Chapter 1086, Statutes of 1990 – added reference to Health and Safety code to BPC section 4980.43(e):

Experience as specified in Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college, or university, a nonprofit and charitable corporation, or a licensed health facility, <u>as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code,</u> if the experience is gained by the trainee solely as part of the position for which he or she is employed.

• Chapter 1054, Statutes of 1993 – makes technical changes to BPC section 4980.43(e):

The experience required by Experience as specified in Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college, or university, a nonprofit and charitable corporation, or a licensed health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code, if the experience is gained by the trainee solely as part of the position for which he or she is employed.

• Chapter 196, Statutes of 1997 – Added additional permissible settings to BPC section 4980.43(e):

The experience required by Section 4980.40 may be gained as a trainee in the following settings: a governmental entity, a school, college, or university, a nonprofit and charitable corporation, or a licensed health facility, as defined in Sections 1250, 1250.2, and 1250.3 of the Health and Safety Code, a social rehabilitation facility or a community treatment facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, a pediatric day health and respite care facility, as defined in Section 1760.2 of the Health and Safety Code, or a licensed alcoholism or drug abuse recovery or treatment facility, as defined in Section 11834.02 of the Health and Safety Code if the experience is gained by the trainee solely as part of the position for which he or she is employed.

• Chapter 607, Statutes of 2003 – amended BPC section 4980.43(e) to contain present setting requirements:

- (e) (1) A trainee may gain the experience required by subdivision (f) of Section 4980.40 in any setting that meets all of the following:
 - (A) Lawfully and regularly provides mental health counseling or psychotherapy.
 - (B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
 - (C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
- (2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.
- Chapter 658, Statutes of 2005 Recasts BPC section 4980.43 and trainee work setting requirements become subdivision (d):
 - (d) (1) A trainee may gain the experience required by subdivision (f) of Section 4980.40 in any setting that meets all of the following:
 - (A) Lawfully and regularly provides mental health counseling or psychotherapy.
 - (B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
 - (C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
 - (2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.





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To: Policy and Advocacy Committee Date: July 2, 2008

From: Mona Maggio Telephone: (916) 574-7841

Assistant Executive Officer

Subject: Discussion and Possible Action Regarding the Mandatory Submission of

Fingerprints for Board Licensees and Registrants

Background

On April 1, 1992, the Board began requiring applicants to submit fingerprint cards for the purpose of conducting criminal history background investigations through the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). The fingerprinting of applicants allows the Board a mechanism to enhance public protection by conducting a more thorough screening of applicants for possible registration or licensure. All trainees, interns, and registrants were required to submit a fingerprint card and processing fee with their applications. Candidates already in the examination cycle were required to submit fingerprints by set dates that were tied to their scheduled licensure examination. (Attachment A). Individuals licensed before April 1, 1992 were not required to submit fingerprints to the Board.

Sometime after implementing the fingerprint process, information was received by the Department of Consumer Affairs (DCA) that the FBI questioned the authority given to State agencies to conduct fingerprint checks through the FBI. Legislation was sponsored and in 1997, the California Legislature gave the Board of Behavioral Sciences (Board) and other entities under the umbrella of the DCA the authority under Business and Professions Code Section 144, (Attachment B) to require a DOJ and FBI criminal history background check on all applicants seeking registration and/or licensure.

Since 1997, all applicants for registration and licensure must submit a full set of fingerprints as part of the application process. With limited exceptions, all applicants are required to submit their prints via Live Scan. (Attachment C). Traditional fingerprint cards (hard cards) are accepted only in those cases where the applicant is located outside of California, or demonstrates a hardship approved by the Board.

Live Scan is a system for the electronic submission of fingerprints and the subsequent automated background checks and responses. Use of a Live Scan machine involves placing individuals' fingers on a glass-scanning surface so a digital image can be scanned. The fingerprints are then stored into the machine's electronic memory and are immediately transmitted to the California DOJ and the United States FBI for completion of the criminal conviction record review. Live Scan is much faster and more efficient than fingerprint cards, decreasing the response time by several weeks or months. The DOJ and the FBI maintains the fingerprints until notified by the Board that it is no longer interested in receiving information regarding the subject.

The current processing fees associated with LiveScan are \$32.00 for DOJ and \$24.00 for FBI, with some Live Scan agencies charging additional fees for "rolling" fingerprints and/or administrative processing. Applicants are responsible to pay all fees associated with the fingerprint process. Information about Live Scan fingerprinting is available on the Board's website, accessed through the Forms and Publications link or by calling the Board's headquarters. The Request for Live Scan Service form can be completed on-line and then downloaded for submission to the fingerprinting agency.

Clearance of the fingerprint requirement means the fingerprint results provided by the DOJ and FBI indicated no criminal convictions, or the convictions noted have been evaluated and cleared by the Board. It is important to note that having a criminal conviction will not automatically prevent an applicant from obtaining a license. The Board does not pre-evaluate criminal convictions, the evaluation is a part of the application process. Since the Board has the responsibility to protect the public, a primary objective of the Board is to ensure registrations or licenses are not issued to applicants who have serious criminal convictions substantially related to the practice of the professional license. For this reason, the Board evaluates all misdemeanor and felony convictions in the same manner for each type of professional license.

Upon receipt of criminal history information the Enforcement staff orders the police reports and court documents and will request that the applicant submit an explanation of the facts and circumstances surrounding the arrest/conviction. Enforcement staff reviews each applicant's criminal history and makes a determination on a case-by-case basis of whether or not the conviction is substantially related to the qualifications, functions, or duties of the license. Business and Professions Code Section 480 authorizes the Board to deny a license because the applicant has been convicted of a crime. (Attachment D). When considering the denial of a license or registration the Board will evaluate any evidence of rehabilitation as identified in California Code of Regulations (CCR) Section 1813. (Attachment E). If the conviction warrants disciplinary action, the applicant is notified that his/her application is denied, and the case is forwarded to the Office of the Attorney General for filing of a Statement of Issues. The applicant has the right to request a formal hearing before an Administrative Law Judge.

Subsequent arrests and/or convictions reports (rap sheets) regarding licensees are reported electronically to the Board. Upon receipt of subsequent information, the Enforcement staff follows the same procedures as in the denial process (police and court documents are ordered and the licensee is asked to provide an explanation of the facts and circumstances surrounding the incident). Once all the information is received, the Enforcement staff will make a determination of whether the subsequent conviction warrants disciplinary action. The Board evaluates any evidence of rehabilitation as identified in CCR Section 1814. (Attachment F). If disciplinary action is warranted, the case will be forwarded to the Office of the Attorney General for filing of an Accusation. The licensee has the right to request an Administrative Hearing.

Most of the subsequent arrest/conviction information received at the Board is for crimes involving driving under the influence (DUI), petty theft, domestic violence and crimes related to substance abuse.

Discussion

The Board has identified a licensing population of over 27,000 licensees who have not participated in a criminal history background investigation via the fingerprint process. Because the Board's highest mandate is protection of the public Staff believes it is imperative that the Board requires all its

licensees to submit fingerprints. To implement this requirement the Board will have to propose amendments to current statutes.

Options for consideration:

The Board may wish to consider tying the requirement to the renewal process, making it a condition precedent to renewal of the existing license. To do so, the Board would need to amend B&P Code sections 4996.6 and 4984; use language from B&P Code section 144 and add it to the list of items in the renewal statutes that this group of licensees must submit fingerprints when they renew after the legislation is enacted. This would be similar to submitting their fee with their renewal application. If the licensee fails to submit the fingerprints, the application would be deemed incomplete and the license would lapse if they fail to comply with the fingerprint requirement. Staff's concern with this option is that a number of renewals are deemed incomplete because licensees fail to check the boxes regarding compliance with continuing education requirements, conviction history within the renewal cycle or they forget to sign the renewal application. (Attachment G). This one-time requirement may add another reason for a deficient renewal application and increase the workload for the Cashier Unit that processes the renewal applications.

Another possibility to consider is requiring a set number of licensees to submit fingerprints each month over a two or three year timeframe. The Board has already identified the licensees who have not been printed. Staff would notify the licensees by mail of the one-time fingerprint requirement. As staff receives the clearance or rap sheet from the DOJ, it would be noted in the licensee's file of his/her compliance. Individuals who are non-compliant with the fingerprint requirement might be issued a cite/fine for non-compliance.

Because other boards under DCA share in this issue and concern, the matter will be discussed by Executive Officers at the Executive Council Meeting scheduled for July 10, 2008.

Total Number of Licensees who maintain a "Current" Status with the Board.

License Type	Number of Licensees as of 4/1/2008
Marriage and Family Therapists	28,918
MFT Interns	11,075
Licensed Clinical Social Workers	16,797
Social Work Associates (ASW)	7,645
Licensed Educational Psychologists	1,774
Total	66,209

Number of Licensees who have not been fingerprinted

Licensees Who Were Licensed Prior to Fingerprint Requirements		MFT	LCSW	LEP
Total Number of Licensees	29578	17724	10731	1123
Current (Status 10)	23542	13914	8692	936
Inactive (Status 9)	6036	3810	2039	187

Fiscal Year	Total Number of Complaints Opened	Complaints Opened From Subsequent Arrest/Conviction Information Received from DOJ/FBI
FY 05/06:	1256	131
FY 06/07	1366	89
FY 07/08*	1348	147

^{*} Statistics for FY 07/08 are as June 29, 2008 and are not finalized

Fiscal Year	Total Number of Cases Referred to the Office of the Attorney General	Number of Cases Referred to the Office of the Attorney General As a Result of Subsequent Arrest/Conviction Information Received from DOJ/FBI
FY 05/06:	50	13
FY 06/07	42	13
FY 07/08*	44	12

^{*} Statistics for FY 07/08 are as June 29, 2008 and are not finalized

Attachments

- A. Memorandum Dated April 1, 2001
- B. Business and Professions Code Section 144
- C. Live Scan Application
- D. Business and Professions Code Section 480
- E. California Code of Regulations Section 1813
- F. California Code of Regulations Section 1814
- G. Sample Application for Renewal

QUESTIONS AND ANSWERS REGARDING FINGERPRINT REQUIREMENT BBSE - APRIL 2, 1992

1. What is the fingerprint requirement?

The fingerprint requirement means all applicants must submit completed fingerprint cards and a nonrefundable fingerprint processing fee with their applications. That is, all applicants registering with the Board as trainees, interns or associates to acquire the required hours of experience and <u>all</u> written or oral examination applicants, including applicants repeating the examination, must submit the completed fingerprint cards and fee.

2. When is the fingerprint requirement to become effective?

For trainees, interns and associates, applications postmarked April 1, 1992 or after must be submitted with completed fingerprint cards and fee.

Effective with the second written examination scheduled in calendar year 1992, all written examination applicants, including applicants repeating the examination, must submit the completed fingerprint cards and fee on or before the established FINAL FILING DATE. That is, by May 14, 1992 for July 14, 1992 MFCC and LEP exams; by April 21, 1992 for June 20, 1992 LCSW exam; and so on.

Effective with the oral examination scheduled in May 1992, all oral examination applicants, including applicants repeating the examination, must submit the completed fingerprint cards and fee on or before the established FINAL FILING DATE. That is, by March 4, 1992 for May 4-23, 1992 MFCC exam; by March 9, 1992 for May 9, 1992 LEP exam; by April 1, 1992 for June 6-7, 13-14, 1992 LCSW exam; and so on. However, the May 1992 MFCC and LEP oral examination applicants must submit the completed fingerprint cards and fee by April 1, 1992 provided their re-examination forms were postmarked by the FINAL FILING DATE.

3. How many completed fingerprint cards must be submitted?

Each applicant must submit one completed fingerprint card.

Applicants with out-of-state education and/or experience must submit a second completed fingerprint card or a total of two completed fingerprint cards.

4. How much is the fingerprint processing fee?

If the applicant is submitting one completed fingerprint card, a nonrefundable fingerprint processing fee of \$27 must accompany it.

If the applicant is submitting two completed fingerprint cards, a nonrefundable fingerprint processing fee of \$50 must accompany them.

The fingerprint processing fee is payable by check or money order to the Behavioral Science Examiners Fund and is in addition to the application and/or examination fee.

5. Who determined the fingerprint processing fees?

The fingerprint processing fees are established by the California Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). These fees are subject to change by these agencies without notice.

The DOJ established a fingerprint processing fee of \$27 for conducting in-state background checks for criminal convictions.

The FBI established a fingerprint processing fee of \$23 for conducting out-of-state background checks for criminal convictions.

The fingerprint processing fee for conducting both in-state and out-of-state background checks for criminal convictions is \$50.

6. Why may the Board require the applicant to pay the fingerprint processing fee?

Section 11105(e) of the Penal Code authorizes the Board to collect a fee sufficient to recover the DOJ and FBI expense of conducting background checks.

7. How and where should the applicant have the fingerprint card(s) completed?

The applicant must TYPE or print legibly in black ink all items marked by a red "\" on both sides of the card(s).

Fingerprints should be taken by an official at a local law enforcement agency. If the applicant resides in California, fingerprints may also be taken by an official at a local field office of the California Department of Motor Vehicles (DMV) or at the California Department of Justice in Sacramento. Private vendors who provide a fingerprinting service are also acceptable.

Applicants should be advised that there may be a fee for this service and that some agencies only provide this service on certain days or between certain hours each day.

If the official taking the fingerprints has difficulty obtaining prints of acceptable quality due to the physical condition of the applicant's finger (e.g., dermatitis, etc.), the official must explain in writing why the prints are the best obtainable. That written explanation should accompany the fingerprint card(s).

8. Must an applicant with amputated or deformed fingers submit fingerprint card(s) and fee?

Yes. Applicants with amputated or deformed fingers must submit fingerprint card(s) and fee with as many fingerprint impressions on it as obtainable. The official taking the fingerprints must write the reason (e.g., "amputated" or "deformed") in the correct area(s) on the fingerprint card(s). Applicants with bandaged finger(s) should wait until their finger(s) is healed or, if possible, remove bandage and print.

9. Must completed fingerprint card(s) and fee be submitted with an application form?

Yes, if the completed fingerprint card(s) and fee are required to make the application complete for evaluation. Otherwise, completed fingerprint card(s) and fee may be submitted with form 37M-470, a letter or no other documents.

10. Must completed fingerprint card(s) and fee be submitted with each subsequent application?

No. However, if the applicant gains any out-of-state education and/or experience after submitting one completed fingerprint card and fee with a registration application, then the applicant will be required to submit a second completed fingerprint card with an additional \$23 fingerprint processing fee.

11. Must completed fingerprint card(s) and fee be submitted with a registration renewal application?

No. Completed fingerprint card(s) and fee are not required to be submitted with a registration renewal application. However, registrants may request in writing to have the fingerprint card(s) and instructions sent to them to avoid any delay in the determination of his or her eligibility at the time of application for licensure. The written request should indicate the number of cards needed and be accompanied by a self-addressed label.

12. If an individual applies for more than one type of licensing program, must the individual submit completed fingerprint card(s) and fee with each type of program application?

Yes. For example, if the individual is a MFCC oral examinee but is applying for registration as an associate clinical social worker, then the individual must submit completed fingerprint card(s) and fee for both the MFCC and the associate registration applications. However, if the individual is concurrently applying for MFCC oral examination and registration as an associate clinical social worker AND notifies the Board in writing about the dual applications with each application form, then the Board will require only completed fingerprint card(s) and fee be submitted with the application for MFCC oral examination.

13. Must individuals licensed by this Board submit fingerprint card(s) and fee?

No. Individuals who are licensed are not required to submit fingerprint card(s) and fee.

14. What will the Board do with the completed fingerprint card(s)?

The Board will submit the completed fingerprint cards to DOJ. The DOJ will process the first fingerprint card and forward the second fingerprint card, if required, to the FBI for processing. These agencies will conduct background checks of applicants for criminal convictions.

The average processing time for fingerprint cards by the DOJ is about four to six weeks.

The average processing time for fingerprint cards by the FBI is about nine to twelve weeks.

If there is a criminal conviction record, then the processing time will be longer. The processing time may also be extended if the fingerprint card is returned by the DOJ and/or FBI because it is incomplete or if the fingerprints are not legible.

Licenses or registrations will only be issued if there is a clearance of the fingerprint requirement. This means the fingerprint responses provided to the Board indicated no criminal conviction(s) or the criminal convictions(s) provided to the Board have been evaluated and cleared by the appropriate Board staff.

15. How does the Board process completed fingerprint card(s) received without the fingerprint fee?

The Board must determine if the applicant has out-of-state education and/or experience.

If the applicant has no out-of-state education and/or experience, then the completed fingerprint card will be returned to the applicant with a letter requesting the applicant to re-submit completed fingerprint card with a \$27 fingerprint processing fee and form 37M-470.

If the applicant has out-of-state education and/or experience, then the completed fingerprint card will be returned to the applicant with a letter requesting the applicant to complete a second fingerprint card and submit both completed fingerprint cards with a \$50 fingerprint processing fee and form 37M-470.

16. How does the Board process a fingerprint fee received without the fingerprint cards(s)?

If the fingerprint fee is submitted as part of an application, the Board will cashier the fingerprint fee and send a letter notifying the applicant that his or her application is incomplete. Those fingerprint fees submitted with no other documents will be returned to the sender.

If the applicant wishes to be scheduled for the next examination, he or she must complete the application by submitting the completed fingerprint card(s) by the established final filing date.

If the applicant wishes to be registered, he or she must complete the application by submitting the completed fingerprint card(s) within 30 days of the date of the notice.

17. How does the Board process two completed fingerprint cards received with a fingerprint fee for one completed fingerprint card?

The Board will process one completed fingerprint card and determine if the applicant has outof-state education and/or experience.

If the applicant has no out-of-state education and/or experience, then the second completed fingerprint card will be kept in the applicant's file as an extra completed fingerprint card.

If the applicant has out-of-state education and/or experience, then the Board will return the second completed fingerprint card to the applicant with a letter requesting the applicant to resubmit the second completed fingerprint card with an additional \$23 fingerprint processing fee and form 37M-470.

18. What are the types of responses the Board may receive from the DOJ?

The Board will receive four types of responses from the DOJ. They will be:

- clearances (a photocopy of the applicant's fingerprint card with a stamp on the front side indicating "No Criminal History - Applicant Clearance"),
- a copy of a typed response reflecting the applicant's criminal history record (also called rap sheet),
- 3) the fingerprint card returned with a notice indicating the specific reason(s) the card was found unsuitable for processing, or
- 4) subsequent arrest notifications reflecting the new arrest information (these notifications will be received after receiving result 1 or 2 above).

19. What are the types of responses the Board may receive from the FBI?

The Board will receive three types of responses from the FBI. They will be:

- clearances (the applicant's fingerprint card will be returned with a stamp on the front side of the card indicating "No Further Information From FBI Files"),
- 2) the applicant's fingerprint card will be returned with a copy of a typed response reflecting the applicant's criminal history record (also called rap sheet), or
- 3) the fingerprint card returned with a notice indicating the specific reason(s) the card was found unsuitable for processing.

20. How does the Board process the clearances received from the DOJ or the FBI?

The clearances received from the DOJ or the FBI will be placed in the applicant's file.

21. How does the Board process the criminal history records received from the DOJ or the FBI?

The Board must determine if there is an open enforcement case on the applicant with the criminal history record from the DOJ or the FBI.

If there is an open enforcement case, then the criminal history record will be forwarded to the appropriate Enforcement Program Coordinator for processing, with a copy to licensing file.

If there is not an open enforcement case, then the file of the applicant with the criminal history record will be reviewed by Board staff to determine appropriate action.

22. How does the Board process fingerprint card(s) found unsuitable for processing (rejected) by the DOJ or the FBI?

The Board will send a letter requesting the applicant to complete and submit a new fingerprint card because his or her previous fingerprint card was found unsuitable for processing. Enclosed with the letter will be the notice from the DOJ or the FBI indicating the specific reason(s) the card was returned and a new fingerprint card with "REPRINT" stamped in the box with the Board's address pre-printed on the front side of the card.

The rejected fingerprint card will be kept by the Board.

23. Must the applicant submit a new fingerprint processing fee with the "REPRINT" fingerprint card?

No. The Board may avoid charging the applicant a new fingerprint processing fee by returning the rejected fingerprint card(s) with the new "REPRINT" fingerprint card.

24. How many free re-submissions of new "REPRINT" fingerprint cards with rejected fingerprint cards are allowed?

Three re-submissions or a maximum of four fingerprint cards per applicant will be processed by the DOJ.

One re-submission or a maximum of two fingerprint cards per applicant will be processed by the FBI.

25. How does the Board process the subsequent arrest notifications received from the DOJ?

The subsequent arrest notifications will be handled in a manner similar to processing criminal history records. See question #21 above.

26. Why is the Board requiring fingerprints?

The fingerprint requirement will allow the Board to protect the public by doing a more thorough screening of applicants for possible registration or license denial due to criminal convictions substantially related to the practice of the professional license (MFCC, LCSW and/or LEP).

The subsequent arrest notification service will provide the Board with information of arrests recorded by the DOJ after the initial background check. This subsequent arrest information may initiate an investigation resulting in the denial or revocation of a registration or license due to criminal convictions substantially related to the practice of the professional license.

27. What fingerprint cards other than the ones provided by the Board are acceptable to the agencies processing the cards?

Acceptable applicant fingerprint cards are forms BID-7 with a revision date after 11/87 and forms FD-258 with a revision date after 1982.

Any applicant fingerprint card with a blue line through the FBI "Leave Blank" box in the upper right hand corner on the front side of the card is <u>not</u> acceptable to the agencies processing the cards.

Additional fingerprint cards may be obtained from the Board if a written request is submitted or at the agency where the fingerprints are taken.

28. May a completed fingerprint card previously submitted to DOJ by another agency be submitted to this Board?

No: DOJ will not accept previously submitted fingerprint cards or a photocopy of the fingerprint impressions.

29. Must an applicant with a clearance on fingerprints from DOJ through another agency submit completed fingerprint card(s) to the Board?

Yes. Only an authorized agency submitting a completed fingerprint card to DOJ has access to the criminal history information maintained by DOJ. If the Board wants background checks conducted, then the Board must submit completed fingerprint cards from its applicants to DOJ. Also, DOJ will only provide subsequent arrest notifications to an agency submitting fingerprints.

Fingerprint responses provided to another agency are not available to this Board.

30. Where may the applicant obtain a copy of his or her criminal history record?

Under Penal Code Sections 11120-11127, individuals are offered the opportunity to obtain a copy of their state summary criminal history record from DOJ for purposes of determining completeness and accuracy. The DOJ fee for this service is currently \$25.

Business and Professions Code Section

- **144**. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.
 - (b) Subdivision (a) applies to the following:
 - (1) California Board of Accountancy.
 - (2) State Athletic Commission.
 - (3) Board of Behavioral Sciences.
 - (4) Court Reporters Board of California.
 - (5) State Board of Guide Dogs for the Blind.
 - (6) California State Board of Pharmacy.
 - (7) Board of Registered Nursing.
 - (8) Veterinary Medical Board.
 - (9) Registered Veterinary Technician Committee.
 - (10) Board of Vocational Nursing and Psychiatric Technicians.
 - (11) Respiratory Care Board of California.
 - (12) Hearing Aid Dispensers Advisory Commission.
 - (13) Physical Therapy Board of California.
 - (14) Physician Assistant Committee of the Medical Board of California.
 - (15) Speech-Language Pathology and Audiology Board.
 - (16) Medical Board of California.
 - (17) State Board of Optometry.
 - (18) Acupuncture Board.
 - (19) Cemetery and Funeral Bureau.
 - (20) Bureau of Security and Investigative Services.
 - (21) Division of Investigation.
 - (22) Board of Psychology.
 - (23) The California Board of Occupational Therapy.
 - (24) Structural Pest Control Board.
 - (25) Contractors' State License Board.
 - (26) Bureau of Naturopathic Medicine.
- (c) The provisions of paragraph (24) of subdivision (b) shall become operative on July 1, 2004. The provisions of paragraph (25) of subdivision (b) shall become operative on the date on which sufficient funds are available for the Contractors' State License Board and the Department of Justice to conduct a criminal history record check pursuant to this section or on July 1, 2005, whichever occurs first.





BOARD OF BEHAVIORAL SCIENCES

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INSTRUCTIONS FOR LIVE SCAN FINGERPRINTING

I. FINGERPRINT REQUIREMENTS

All applicants are required to submit two sets of fingerprints. All requests from this Board for background checks of applicants must be submitted to the **Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI)** either by Live Scan or on a completed ten-print (hard card) applicant fingerprint card. Previously processed fingerprint cards, or photocopies of fingerprint impressions are not acceptable. The Board recommends completing Live Scan no more than thirty days prior to submitting your application. Live Scan results without corresponding applications on file are destroyed after six months. If Live Scan results have been destroyed, you will be required to re-print.

Fingerprint Fees

DOJ FINGERPRINT PROCESSING FEE \$32.00 FBI FINGERPRINT PROCESSING FEE \$24.00

The Live Scan agency will collect the fingerprint processing fees directly from the applicant at the time you obtain your live scan fingerprints. Please be aware that these processing fees are in addition to the service fee charged by the Live Scan operator.

II. COMPLETE THE REQUEST FOR LIVE SCAN SERVICE APPLICANT SUBMISSION FORM

Applicants must complete and submit the enclosed Request for Live Scan Service Applicant Submission form (BCII 8016) at the Live Scan site. Once your fingerprints have been scanned, the Live Scan operator will complete Box 6 of this form and return the second and third copies to you. THE SECOND COPY OF THIS FORM, WITH BOX 6 COMPLETED BY THE LIVE SCAN OPERATOR, MUST BE SUBMITTED TO THE BOARD WITH YOUR APPLICATION IN ORDER FOR THE BOARD TO RETRIEVE YOUR CRIMINAL HISTORY REPORT FROM DOJ. Retain the third copy for your records.

Live Scan fingerprints can be obtained at most local Police and Sheriff stations, local offices of the Department of Justice, and some large school districts. A current listing of Live Scan sites is available at the DOJ website at http://ag.ca.gov/fingerprints/publications/contact.php, select "Contact Information".

APPLICANTS SHOULD CALL THE LIVE SCAN SITE FOR HOURS OF OPERATION AND FEES, AND TO DETERMINE IF AN APPOINTMENT IS NECESSARY. You must present a valid photo identification (i.e., driver's license or ID, military ID, or passport) at the live scan site.

COMPLETE THE ENCLOSED "REQUEST FOR LIVE SCAN SERVICE APPLICANT SUBMISSION FORM". Once your fingerprints have been scanned, the Live Scan operator will complete Box 6 of this form and return the second and third copies to you.

- Your name must be identical to that submitted on your application.
- All applicants must complete all items, which are marked by a black "X".
- To facilitate prompt and accurate processing, please **TYPE or print legibly** all requested information.

Box 1: Type of License, Certification or Permit- Place an "X" in the box next to the registration/license type for which you are applying. For Intern Registration and Marriage and Family Therapy Licensure place an "X" in the box next to Marriage and Family Therapist. For Associate Registration and Clinical Social Worker Licensure place an "X" in the box next to Clinical Social Worker.

Box 2: No action required.

Box 3:

Name of Applicant- Enter your full name, identical to that submitted on your application

AKA's- Indicate all other names used

DOB- Indicate your month/day/year of birth

Sex- Place "X" in the appropriate box

<u>HT</u>- Indicate your height in feet and inches using a three-digit code (first digit=feet, second and third digits=inches)

EXAMPLE: 5 feet 9 inches = 509

WT- Indicate your weight in pounds

Eye Color- Indicate eye color abbreviation:

BLK - BlackGRY - GrayMAR - MaroonBLU - BlueGRN - GreenPNK - PinkBRO - BrownHAZ - HazelMUL - Multicolor

Hair Color- Indicate hair color abbreviation:

BAL - BaldBRO - BrownSDY - SandyBLK - BlackGRY - GrayWHI - White

BLN – Blonde **RED** – Red

POB- Indicate the state or country of birth

SOC- Enter your social security number

CDL- Enter your California Driver's license number

Box 4:

If resubmission, list Original ATI No. provided on the reject notification to avoid paying an additional processing fee.

Box 5: No action required

Box 6: To be completed by the Live Scan operator

REMEMBER, THE SECOND COPY OF THE FORM MUST BE SUBMITTED TO THE BOARD WITH YOUR APPLICATION IN ORDER FOR THE BOARD TO RETRIEVE YOUR CRIMINAL HISTORY REPORT FROM DOJ.

REQUEST FOR LIVE SCAN SERVICE FORM

Applicant Submission

ORI: _AO462 Type of Application (check one)	☐ Employment ☐ License, 0	Certification, Permit 🗌 Volunteer
Type of Licensure, Certification or Perr Marriage and Family Therapis		Educational Psychologist
Agency Address Set Contributing Agency	St Cliffical Octial Worker	Educational F Sychologist
BOARD OF BEHAVIORAL SCIENCES 1625 NORTH MARKET BLVD., SUITE S200	01484 Mail Code Patricia Fay	
	Contact Name	
SACRAMENTO, CA 95834	<u>(916) 574-7837</u>	
Name of Applicant:		
AKA's:	CDL No	
DOB: SEX: Male Female	Misc. No. BIL: APPLICANT	MUST PAY
HGT: WGT:	Misc. No.	
EYE Color: HAIR Color:	Home Address:	Street or PO Box
POB:		City, State and Zip Code
SOC:		
Your Number <u>Leave Blank</u> OCA No. (Agency Identifying No.)		
If resubmission, list Original ATI No.	Level of Service 🛭 DO	J ⊠ FBI
Employer: (Additional response for agencies specifie LEAVE THIS SECTION BLANK	d by statute)	
Employer Name		
Street No.	Mail Code (assigned by DOJ)	
City State Zip	Agency Telephone No.	
Live Scan Transmission Completed By:		Date:
Transmitting Agency	ATI No.	Amount Collected/Billed

REQUEST FOR LIVE SCAN SERVICE FORM

Applicant Submission

ORI: <u>AO462</u> Type of Application (check or	ne) 🗌 Employment 🔀 License,	Certification, Permit 🗌 Volunteer
Type of Licensure, Certification or F Marriage and Family Ther		Educational Psychologist
Agency Address Set Contributing Agency		
BOARD OF BEHAVIORAL SCIENCES	01484	
1625 NORTH MARKET BLVD., SUITE S200	Mail Code Patricia Fay	
	Contact Name	
SACRAMENTO, CA 95834	<u>(916) 574-7837</u>	
Name of Applicant:		
AKA's:	CDL No	
DOB: SEX: Male Female	Misc. No. BIL: APPLICANT	MUST PAY
HGT: WGT:	Misc. No.	
EYE Color: HAIR Color:	Home Address:	Street or PO Box
POB:		City, State and Zip Code
SOC:		Oily, State and Zip Gode
Your Number <u>Leave Blank</u>		
OCA No. (Agency Identifying No.)		
If resubmission, list Original ATI No.	Level of Service 🛛 DO	J 🛮 FBI
Employer: (Additional response for agencies spec	ified by statute)	
LEAVE THIS SECTION BLANK		
Employer Name		
Street No.	Mail Code (assigned by DOJ)	
City State Zip	Agency Telephone No.	
Live Scan Transmission Completed By:		Date:
Transmitting Agency	ATI No.	Amount Collected/Billed

REQUEST FOR LIVE SCAN SERVICE FORM

Applicant Submission

ORI: _AO462 Type of Application (check one)	☐ Employment ⊠ License,	Certification, Permit 🗌 Volunteer
Type of Licensure, Certification or Permi Marriage and Family Therapis		Educational Psychologist
Agency Address Set Contributing Agency		, ,
BOARD OF BEHAVIORAL SCIENCES 1625 NORTH MARKET BLVD., SUITE S200	01484 	
SACRAMENTO, CA 95834	<u>(916) 574-7837</u>	
Name of Applicant:		
AKA's:	CDL No	
DOB: SEX: Male Female	Misc. No. BIL: APPLICAN	T MUST PAY
HGT: WGT:	Misc. No	
EYE Color: HAIR Color:	Home Address:	Street or PO Box
POB:		City, State and Zip Code
SOC:		
Your Number <u>Leave Blank</u> OCA No. (Agency Identifying No.)		
If resubmission, list Original ATI No.	Level of Service 🛛 DO	J ⊠ FBI
Employer: (Additional response for agencies specifie LEAVE THIS SECTION BLANK	ed by statute)	
Employer Name		
Street No.	Mail Code (cosigned by DO I)	
	Mail Code (assigned by DOJ)	
City State Zip	Agency Telephone No.	
Live Scan Transmission Completed By:		Date:
Transmitting Agency	ATI No.	Amount Collected/Billed



- **480**. (a) A board may deny a license regulated by this **code** on the grounds that the applicant has one of the following:
- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or
- (3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

- (b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.
- (c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.



§1813. CRITERIA FOR REHABILITATION-DENIAL OF LICENSURE

When considering the denial of a license or registration under Section 480 of the Code, the board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license or registration shall consider the following criteria:

- (a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (c) The time that has elapsed since commission of the act(s) or crime(s) referred to in Section 480 of the Code.
- (d) The extent to which the applicant has complied with any terms of probation, parole, restitution, or any other sanctions lawfully imposed against the applicant.
- (e) Evidence, if any, of rehabilitation submitted by the applicant.

Note: Authority cited: Sections 4980.60 and 4990.14 , Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.



§1814. CRITERIA FOR REHABILITATION-SUSPENSIONS OR REVOCATIONS

(a) When considering the suspension or revocation of a license, the board, in evaluating the rehabilitation of such

person and his or her eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or crime(s) under consideration as grounds for suspension or revocation.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for suspension or revocation under Section 490 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) giving rise to the suspension or revocation.
- (4) Whether the licensee has complied with any terms of probation, parole, restitution or any other sanctions lawfully imposed against such person.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, concerning the degree to which a false statement relative to application for licensure may have been unintentional, inadvertent or immaterial.
- (7) Efforts made by the applicant either to correct a false statement once made on an application or to conceal the truth concerning facts required to be disclosed.
- (8) Evidence, if any, of rehabilitation submitted by the licensee.
- (b) When considering a petition for reinstatement of a license or registration under the provisions of Section 11522 of the Government Code, the board shall evaluate evidence of rehabilitation submitted by the petitioner considering those criteria specified in Section 1813 of this article.

Note: Authority cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 482 and 4982, Business and Professions Code.



STATE OF CALIFORNIA

MANUAL LICENSE RENEWAL APPLICATION

1800 37M-407 (REV. 02/08)

BOARD OF BEHAVIORAL SCIENCES 1625 NORTH MARKET BLVD., SUITE S200, SACRAMENTO, CA 95834 TELEPHONE: (916) 574-7830 TDD: (916) 322-1700

WEB SITE ADDRESS: http://www.bbs.ca.gov

---- PLEASE ALLOW 4 TO 6 WEEKS FOR PROCESSING ----

LICENSE NUMBER	EXPIRATION DATE			
AMOUNT ENCLOSED	Continuing Educat	ion/Inactive/Convicti	on Information	1
Make check payable to:	 A □ I have completed the required hours of CE within the last two years or have been granted an exception by the board. B □ I have not completed the required CE and/or please renew my license with an inactive status. 			
Board of Behavioral Sciences	FOR ALL LICENSEES: Sub pled nolo contendere to a mi	esequent to your last renewal, h sdemeanor or felony, or have y in this or any other state, subse	ave you been convicte ou had any disciplinar	ed of, pled guilty to, or y action taken by any
	I certify under penalty of perjury under the laws of the State of California that the foregoing information is true and correct.			
	SIGNATURE		DATE	
*NAME**ADDRESS	** NOTE: The address the Internet pursuan	legal name for your professiona s you enter on this application is to Business and Professions s available to the public, please	s public information, a Code Section 27. If ye	nd will be placed on ou do not want your
ODEOLAL EEE INCODMATION	nome of work address.	a available to the public, please	provide arranerriate r	maining dadress.
SPECIAL FEE INFORMATION		RENEWAL FEES	expiration on o	or after 1/31/05
RENEWAL FEES expired on or before	12/31/04 only	RENEWAL FEES Active	expiration on control	Delinquent

(Detach Here)

IMPORTANT INFORMATION

The renewal fee listed above must be postmarked on or before the expiration date of your license. If postmarked after the expiration date, the delinquency fee is required. THERE IS NO GRACE PERIOD. A license that is not renewed by the expiration date is deemed expired. IT IS ILLEGAL TO PRACTICE ON AN EXPIRED LICENSE.

CONTINUING EDUCATION (MFT& LCSW ONLY)

CE is required to renew a license with an active status.

18 hours of CE are required to renew an initial license.

36 hours of CE are required to renew a license for each two-year renewal period.

DO NOT SUBMIT PROOF OF CE WITH RENEWAL.

AUDITS

You must retain your CE certificates for at least two years from the date of the license renewal for which the courses were completed. The board will be performing random audits. If you are audited, you will be required to provide copies of your CE certificates at that time as proof of completion of the CE requirement.

INACTIVE STATUS

CE is not required to renew an inactive license or to change license status to inactive. There is no penalty for having an inactive status, and you can renew with an inactive status indefinitely. An inactive license can be reactivated at any time by completing the CE required at the time of reactivation and paying the remainder of the renewal fee.

CONTINUING EDUCATION AND CONVICTION INFORMATION MUST BE COMPLETED

You must disclose all misdemeanors and felonies. You may exclude any traffic violations for which a fine of \$500 or less was imposed. Your signature and date are required in addition to completion of all the information requested. Failure to complete any portion of the CE and conviction information will delay the process of your renewal.

Please be aware of the following information:

- A licensee's status and address of record is public information.
- A licensee is not entitled to payment by a client or an insurer for services performed while license is expired or inactive.
- **9**A licensee may not supervise or sign off hours for MFT interns or associate clinical social workers while the license is expired or inactive.
- **4** A license that is not renewed within 3 years after its expiration date will be cancelled. To be licensed again, you

will

- be required to reapply for a new license, meet all current requirements, and pass the licensing examinations.
- Disclosure of your social security number (SSN) is mandatory. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c) (2) (c)) authorizes collection of your SSN.

*NAME CHANGES

Licensees must use their LEGAL name for their professional license. If you have a name change that you would like to have processed with the renewal application, you must submit the only appropriate documentation, of ether a copy of your marriage certificate, divorce decree, or court order with this renewal application. A driver's license and social security card will NOT be accepted as proof of a legal name change.

DO NOT SEND ORIGINAL DOCUMENTS UNLESS SPECIFICALLY REQUESTED.

DISPLAY OF LICENSE

A licensee is required to display their license in a conspicuous place in their primary place of business.

The Board of Behavioral Sciences does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

The Executive Officer of the Board has been designated to coordinate and carry out this agency's compliance with the nondiscrimination requirements of Title II of the ADA. Information concerning the provisions of the ADA, and the rights provided hereunder, are available from the ADA Coordinator.





1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Policy and Advocacy Committee Members Date: July 2, 2008

From: Tracy Rhine Telephone: (916) 574-7847

Legislative Analyst

Subject: Licensed Educational Psychologists Continuing Education Requirement

Background

Senate Bill 1475, Chapter 659, Statutes of 2006, established a continuing education (CE) requirement for LEPs, requiring 150 hours every five years, consistent with that required for school psychologists at that time. However, legislation in 2006 (SB 1209, Chapter 517, Statutes of 2006) deleted the requirement of 150 hours of professional development, effective January 1, 2007.

Subsequently, the board sponsored legislation in 2007 to change the CE requirement for LEPs to 36 hours every two years, consistent with Marriage and Family Therapists (MFTs) and Licensed Clinical Social Workers (LCSWs). The Governor signed into law SB 1048, Chapter 588, Statutes of 2007 and the 36 hours CE requirement for LEPs went into effect January 1, 2008 (Business and Professions Code §4989.34).

Problem

Business and Professions Code section 4989. 34 requires a LEP, upon renewal of his or her license, to provide proof of not less than 36 hours of approved continuing education in the preceding two years. However, the board must adopt regulations to administer the statutory mandate. The board has not yet adopted regulations relating to LEP CE.

<u>Issues</u>

The attached draft rulemaking applies virtually identical CE requirements for LEPs as those for LCSWs and MFTs. However, there are a number of options the committee needs to consider relating the an implementation schedule and specific CE course requirements.

Implementation. In creating a framework for LEP CE requirements the board may want to consider implementation timeline options. The CE requirements for LEPs went into effect January 1, 2008 – however, to increase compliance with these new CE requirements a delayed implementation timeline may be considered. The attached draft rulemaking provides two options for delayed implementation.

• Option A provides that a licensee would not have to complete 36 hours of CE until the first full renewal cycle after the operative date of the regulation. Making the section

requiring CE operative April 1, 2009, a licensee that renews his or her license March 30, 2009 would not have a full renewal cycle until after his or her renewal in March 2011, conceivably making the completion of 36 hours of CE not mandatory until renewal in March 2013. In other words, this could allow almost four years in some instances until a licensee would have to comply with the requirement – and making the law in effect for up to six years before some licensees would have to be in compliance.

Option B would provide for a phased-in implementation of the CE requirements over 32 months. Specifically, Option B states that a licensee renewing in 2010 would have to complete 18 hours of CE upon renewal. Beginning January 1, 2011, licensees would have to complete the full 36 hours of CE for renewal. In the instance of the licensee that renews on March 30, 2009 – this individual would have to certify completion of the full 36 hours upon renewal in March 2011. For a licensee that renews his or her license this year, only 18 hours of CE would be required upon renewal in 2010. Option B would bring LEPs and the board in line with statutory CE requirements within eighteen months.

Specific Course Requirements. Currently 16 CCR section 1887.3 sets forth the continuing education requirements of MFTs and LCSWs. The proposed rulemaking attached adds LEPs as licensees subject to the same CE requirements. Subdivisions (b) and (c) sets forth specific course requirements based on statutory guidelines provided in Business and Professions Code sections 29 and 32.

Provisions in Business and Professions Code section 29 directs the board to consider adopting CE requirements related to chemical dependency and early intervention training for LCSWs and MFTS. This section does not expressly direct the board to consider this training for LEPs.

Additionally, Business and Professions code section 32 directs the board to consider including training related to acquired immune deficiency syndrome (AIDS) in any CE requirements of board licensees, including LEPs.

The attached drafted language amending section 1887.3 does not alter the language in subdivisions (b) and (c). Staff requests input from the committee on whether proposed regulations should require LEPs to meet specific course requirements consistent with other board licensees, though not statutorily mandated to do so.

Staff notes that uniformly applying requirements, when appropriate and applicable, provides a better understanding to individuals of their responsibilities and duties as a licensee. Furthermore, standardized requirements for board licensees can provide assurances to the client seeking a qualified practitioner that each licensee possesses the same basic training and knowledge, regardless of license type.

Recommendation

Review attached proposed language for rulemaking relating to continuing education requirements for LEPs, and address possible issues. Direct Staff to make appropriate changes to draft rulemaking for future approval by the board.

ATTACHMENTS

Draft rulemaking language B & P Code section 29 B & P Code section 32

Single underlined language represents option A amendments

Double underlined language represents option B amendments

§1819.1. CONTINUING EDUCATION PROVIDER FEES

The application fee for board approval as a continuing education provider is two hundred dollars (\$200.00). This fee also covers the issuance of the initial two-year continuing education provider approval.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4989.34 and 4996.22, Business and Professions Code.

ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE AND FAMILY THERAPISTS, AND LICENSED CLINICAL SOCIAL WORKERS AND LICENSED EDUCATIONAL PSYCHOLOGIST

§1887. DEFINITIONS

As used in this article:

- (a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.
- (b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).
- (c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.
- (d) A "renewal period" means the two-year period which spans from a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 4990.14, Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.1. LICENSE RENEWAL REQUIREMENTS

(a) Except as provided in Section 1887.2, a licensee shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding

renewal period the licensee has completed thirty-six (36) hours of continuing education credit as set forth in Sections 4980.54, and 4996.22 and 4989.34 of the Code.

- (b) A licensee who falsifies or makes a material misrepresentation of fact when applying for license renewal or who cannot verify completion of continuing education by producing a record of course completion, upon request by the board, is subject to disciplinary action under Sections 4982(b), and 4992.3(b) and 4989.54 of the Code.
- (c) Licensed educational psychologists shall be subject to the license renewal requirements of this section as specified:
 - (1) Prior to January 1, 2010, licensees shall not be required to fulfill the certification requirements of this section as a condition of license renewal.
 - (2) Beginning January 1, 2010 and through December 31, 2010 licensees shall certify in writing, when applying for license renewal, by signing a statement under penalty of perjury that during the preceding renewal period the licensee has completed eighteen (18) hours of continuing education credit as set forth in Section 4989.34 of the Code.
 - (3) On and after January 1, 2011 licensees shall meet all of the requirements of subdivisions (a) and (b).

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS

- (a) An initial licensee shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.
- (b) A licensee is exempt from the continuing education requirement if their license is inactive pursuant to Sections 4984.8, **4989.44 or** and 4997 of the Code.
- (c) A licensee may submit a written request for exception from the continuing education requirement for any of the reasons listed below. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:
- (1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service:
- (2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or
- (3) During the licensee's previous renewal period, the licensee or an immediate family member, where the licensee has primary responsibility for the care of that family member, was suffering from or suffered a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The disability must be verified by a licensed physician or psychologist with special expertise in the area of the disability. Verification of the disability must include:
- (A) the nature and extent of the disability:
- (B) an explanation of how the disability would hinder the licensee from completing the continuing education requirement; and

(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.

Note: Authority Cited: Sections 4980.54, 4980.60, 4990.14, and 4996.22, Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS

- (a) A licensee shall accrue at least thirty-six (36) hours of continuing education courses as defined in Section 1887.4. A licensee may accrue no more than twelve (12) hours of continuing education earned through selfstudy courses during a single renewal period.
- (b) Pursuant to Section 29 of the Code, a licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above. Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.
- (c) Pursuant to Section 32 of the Code, a licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees. Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements. (d) Any person renewing his or her license on and after January 1, 2004 shall have completed not less than six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing
- education requirement.

 (e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.
- (f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.
- (g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement. (h) All provisions in this section relating to continuing education requirements for licensed educational psychologists shall become effective during the first full renewal period after April 1, 2009.

(h) Provisions of subdivision (a) shall apply to licensed educational psychologist as follows:

(1) Prior to January 1, 2010, licensees shall not be required to fulfill continuing education requirements pursuant to this section as a condition of license renewal.

(2) Beginning January 1, 2010 and through December 31, 2010 licensees shall complete at least eighteen (18) hours of continuing education prior to his or her license renewal.

(3) On and after January 1, 2011 licensees shall meet the requirements of subdivision (a).

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 29, 32, 4980.54 and 4996.22, and 4989.34 Business and Professions Code.

§1887.4. CONTINUING EDUCATION COURSE CONTENT

- (a) A provider shall ensure that the content of a course shall be relevant to the practice of marriage and family therapy, educational psychology or clinical social work and meet the requirements set forth in Sections 4980.54, 4989.34 and 4996.22 of the Code. The content of a course shall also be related to direct or indirect patient/client care.
- (1) Direct patient/client care courses cover specialty areas of therapy (e.g., theoretical frameworks for clinical practice; intervention techniques with individuals, couples, or groups).
- (2) Indirect patient/client care courses cover pragmatic aspects of clinical practice (e.g., legal or ethical issues, consultation, recordkeeping, office management, insurance risks and benefits, managed care issues, research obligations, supervision training).
- (b) A provider shall ensure that a course has specific objectives that are measurable.
- (c) Upon completion of a course, a licensee shall evaluate the course through some type of evaluation mechanism.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.5. HOURS OF CONTINUING EDUCATION CREDIT

- (a) One hour of instruction is equal to one hour of continuing education credit.
- (b) One academic quarter unit is equal to ten (10) hours of continuing education credit.
- (c) One academic semester unit is equal to fifteen (15) hours of continuing education credit.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.6. CONTINUING EDUCATION PROVIDERS

A continuing education course shall be taken from:

- (a) an accredited or approved postsecondary institution that meets the requirements set forth in Sections 4980.54(f)(1), 4989.34 or 4996.22(d)(1) of the Code; or
- (b) a board-approved provider with a valid, current approval as provided in Section 1887.7.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS

- (a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.
- (b) A continuing education provider shall submit a completed Continuing Education Provider Application (Form no. 37A-633, new 5/97), hereby incorporated by reference, remit the

appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

- (c) A provider may not apply for a new provider approval number within one year of an existing approval's expiration unless the provider has undergone a change of ownership.
- (d) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.
- (e) When a provider's approval is expired, the provider may not present a course for continuing education credits for licensees of the Board of Behavioral Sciences.
- (f) Board-approved provider numbers are non-transferable.
- (g) The Board shall send a renewal notice, at least thirty (30) days prior to the expiration, to any continuing education provider approved by the Board, to the address of record for such provider.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20 Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.8. REVOCATION AND DENIAL OF BOARD-APPROVED PROVIDER STATUS

- (a) The board may revoke its approval of a provider or deny a provider application for good cause. Good cause includes, but is not limited to, the following:
- (1) a provider is convicted of a felony or misdemeanor offense substantially related to the activities of a board-approved provider;
- (2) a provider, who is a licensee of the board, fails to comply with any provisions of Chapters 13. 13.5 and 14 of the Business and Professions Code or Title 16, Division 18 of the California Code of Regulations; or
- (3) a provider makes a material misrepresentation of fact in information submitted to the board.
- (b) After a thorough case review, should the board decide to revoke or deny its approval of a provider, it shall give the provider written notice setting forth its reasons for revocation or denial. The provider may appeal the revocation or denial in writing, within fifteen (15) days after receipt of the revocation or denial notice, and request a hearing with the board's designee. The revocation is stayed at this point. Should the board's designee decide to uphold the revocation or denial, the provider may appeal the decision of the board's designee in writing, within seven (7) days after receipt of the decision of the board's designee, and request a hearing with a continuing education appeals committee appointed by the board chairperson. The hearing will take place at the next regularly scheduled board meeting, provided the appeal is received before the meeting is noticed to the public. It is at the discretion of the board's designee whether to stay the revocation further.

The continuing education appeals committee shall contain three board members, one public member and two members representing two of the three license types regulated by the board. The decision of the continuing education appeals committee is final.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54-and 4996.22, and 4989.34 Business and Professions Code.

§1887.9. COURSE ADVERTISEMENTS

A provider shall ensure that information publicizing a continuing education course is accurate and includes the following:

- (a) the provider's name;
- (b) the provider number, if a board-approved provider;

- (c) the statement "Course meets the qualifications for _____ hours of continuing education credit for MFTs, **LEPs** and/or LCSWs as required by the California Board of Behavioral Sciences":
- (d) the provider's policy on refunds in cases of non-attendance by the registrant; and
- (e) a clear, concise description of the course content and objectives.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.

§1887.10. COURSE INSTRUCTOR QUALIFICATIONS

- (a) A provider shall ensure that an instructor teaching a course has at least two of the following minimum qualifications:
- (1) a license, registration, or certificate in an area related to the subject matter of the course. The license, registration, or certificate shall be current, valid, and free from restrictions due to disciplinary action by this board or any other health care regulatory agency;
- (2) a master's or higher degree from an educational institution in an area related to the subject matter of the course:
- (3) training, certification, or experience in teaching subject matter related to the subject matter of the course; or
- (4) at least two years' experience in an area related to the subject matter of the course.
- (b) During the period of time that any instructor has a healing arts license that is restricted pursuant to a disciplinary action in California or in any other state or territory, that instructor shall notify all approved continuing education providers for whom he or she provides instruction of such discipline before instruction begins or immediately upon notice of the decision, whichever occurs first.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, 4982.15, and 4996.22, and 4989.34 Business and Professions Code.

§1887.11. RECORDS OF COURSE COMPLETION

Upon completion of a course, a provider shall issue a record of course completion to a licensee (e.g., letters of verification of attendance, certificates, gradeslips, transcripts) containing the following information:

- (a) name of licensee and license number or other identification number;
- (b) course title;
- (c) provider name and address;
- (d) provider number, if a board-approved provider;
- (e) date of course;
- (f) number of hours of continuing education credit; and
- (g) signature of course instructor, provider, or provider designee.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.

§1887.12. LICENSEE AND PROVIDER COURSE RECORDS

- (a) A licensee shall maintain records of course completion for a period of at least two (2) years from the date of license renewal for which the course was completed.
- (b) A provider shall maintain records related to continuing education courses for a period of at least four (4) years. Records shall include:
- (1) syllabi for all courses;
- (2) the time and location of all courses;

- (3) course advertisements:
- (4) course instructors' vitaes or resumes:
- (5) attendance rosters with the names and license numbers of licensees who attended the courses;
- (6) sign-in sheets; and
- (7) records of course completion issued to licensees who attended the courses.
- (c) The board may audit the course records of a provider to ensure compliance with the board's continuing education requirements.

Note: Authority Cited: Sections 4980.60, 4989.34 and 4990.20, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.

1887.13 RENEWAL OF EXPIRED APPROVAL

A provider approval that has expired may be renewed at any time within one (1) year after its expiration upon all of the following:

- (a) Filing an application for renewal on a form prescribed by the board.
- (b) Payment of the renewal fee in effect on the last regular renewal date.
- (c) Payment of the delinquency fee in effect on the last regular renewal date.
- (d) Submission of a letter stating that no courses were presented while the provider's approval status was expired. If a course was presented during that time, the letter shall state that all participants have been notified that the provider's approval status at the time of completion of the continuing education was expired and that continuing education hours will not be disallowed by the Board if the provider renews within one (1) year after its expiration.

Note: Authority Cited: Sections 4980.60 and 4980.20, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.

1887.14 TIME LIMIT FOR RENEWAL OF APPROVAL AFTER EXPIRATION; NEW APPROVAL

A provider approval that is not renewed within one year of its expiration date may not be renewed, reinstated, or reissued thereafter, but the provider may apply for and obtain a new approval if:

- (a) No fact, circumstance, or condition exists that, if the approval were issued, would justify its revocation; and
- (b) The applicant pays the fees that would be required if applying for approval for the first time.

Note: Authority Cited: Sections 4980.60, and 4980.20 and 4989.43, Business and Professions Code. Reference: Sections 4980.54, and 4996.22, and 4989.34 Business and Professions Code.



§29. CHEMICAL DEPENDENCY AND EARLY INTERVENTION TRAINING; CONTINUING EDUCATION REQUIREMENTS

- (a) The Board of Psychology and the Board of Behavioral Sciences shall consider adoption of continuing education requirements including training in the area of recognizing chemical dependency and early intervention for all persons applying for renewal of a license as a psychologist, clinical social worker, or marriage and family therapist.
- (b) Prior to the adoption of any regulations imposing continuing education relating to alcohol and other chemical dependency, the board and committee are urged to consider coursework to include, but not necessarily be limited to, the following topics:
 - (1) Historical and contemporary perspectives on alcohol and other drug abuse.
- (2) Extent of the alcohol and drug abuse epidemic and its effects on the individual, family, and community.
 - (3) Recognizing the symptoms of alcoholism and drug addiction.
 - (4) Making appropriate interpretations, interventions, and referrals.
 - (5) Recognizing and intervening with affected family members.
- (6) Learning about current programs of recovery, such as 12 step programs, and how therapists can effectively utilize these programs.

§32. LEGISLATIVE FINDINGS; AIDS TRAINING IN CONTINUING EDUCATION REQUIREMENTS FOR SPECIFIED LICENSES

- (a) The Legislature finds that there is a need to ensure that professionals of the healing arts who have or intend to have significant contact with patients who have, or are at risk to be exposed to, acquired immune deficiency syndrome (AIDS) are provided with training in the form of continuing education regarding the characteristics and methods of assessment and treatment of the condition.
- (b) A board vested with the responsibility of regulating the following licensees shall consider including training regarding the characteristics and method of assessment and treatment of acquired immune deficiency syndrome (AIDS) in any continuing education or training requirements for those licensees: chiropractors, medical laboratory technicians, dentists, dental hygienists, dental assistants, physicians and surgeons, podiatrists, registered nurses, licensed vocational nurses, psychologists, physician assistants, respiratory therapists, acupuncturists, marriage and family therapists, licensed educational psychologists, and clinical social workers.







1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Policy and Advocacy Committee Date: June 30, 2008

From: Paul Riches Telephone: (916) 574-7840

Executive Officer

Subject: Update on BPPVE and Related Legislation

Senate Bill 823 (Perata)

This is Senator Perata's legislation to establish a new bureau to replace the BPPVE. It was substantially amended on June 19, 2008 and for a brief period of time it appeared that a deal had been struck. However, since that time significant opposition to the bill has appeared and the outcome is now uncertain. As of this writing, the bill failed passage on the Assembly Floor.

Assembly Bill 1897 (Emmerson)

This is the board sponsored bill that would allow the BBS to continue accepting degrees from BPPVE approved programs through the end of 2011. The bill only takes effect if SB 823 fails passage this year. It passed the Senate Business and Professions Committee and is awaiting consideration by the Senate Appropriations Committee. (legislation is included for your reference)

Board Regulations

The board published proposed regulations to extend the ability of the board to accept degrees from BPPVE approved programs in June and a regulation hearing will be held in Sacramento on August 4, 2008 to take public comment on the proposal. Staff expects to have the board vote on the proposed regulation at the August 2008 board meeting. The regulation could be in effect before the end of 2008 if the rulemaking proceeds as planned. (draft regulation included for your reference)



DEPARTMENT OF CONSUMER AFFAIRS BOARD OF BEHAVIORAL SCIENCES Proposed Language

Adopt section 1832.5 in Article 4 of Division 18 of Title 16 of the California Code of Regulations, to read as follows:

1832.5 Requirements for Degrees from Educational Institutions Approved by the Bureau for Private Postsecondary and Vocational Education.

- (a) A doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university that held an approval to operate from the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007 will be considered by the board to meet the course requirements necessary to qualify for licensure under Section 4980.40 or registration under 4980.44 of the Code provided that the degree is awarded on or before June 30, 2012.
- (b) This Section will become inoperative if legislation reenacts the Private

 Postsecondary and Vocational Education Reform Act of 1989, Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of the Education Code and the Bureau for Private Postsecondary and Vocational Education, or if legislation provides for a successor agency to the Bureau for Private Postsecondary and Vocational Education and that agency commences operations on or after January 1, 2009.

Note: Authority cited: Section 4990.20, Business and Professions Code. Reference: Sections 4980.40 and 4980.44 of the Business and Professions Code.



AMENDED IN ASSEMBLY APRIL 10, 2008 AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1897

Introduced by Assembly Member Emmerson (Coauthor: Assembly Member Torrico)

February 7, 2008

An act to add Section 4980.40.5 to the Business and Professions Code, relating to marriage and family therapists.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Emmerson. Marriage and family therapists: licensure.

Existing law provides for the licensure, registration, and regulation of marriage and family therapists and marriage and family therapist interns by the Board of Behavioral Sciences. Existing law requires applicants for a license or registration to meet certain qualifications, including, but not limited to, the possession of a doctor's or master's degree in a subject related to marriage and family obtained from an educational institution accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education or the Commission on Accreditation for Marriage and Family Education, as specified. By operation of law, the Bureau for Private Postsecondary and Vocational Education became inoperative on July 1, 2007.

This bill would specify that a doctor's or master's degree approved by the Bureau for Private Postsecondary and Vocational Education as of June 30, 2007, shall be considered by the board to meet the specified AB 1897 -2-

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licensure and registration requirements if the degree is conferred on or before December 31, 2011. The bill would also require the board to accept certain doctor's or master's degrees as equivalent degrees if those degrees are conferred by—California educational institutions—and accredited by specified associations. The bill would make these provisions inoperative upon the enactment of on the date that legislation reestablishing the Private Postsecondary and Vocational Education Reform Act of 1989 or a successor act and the Bureau for Private Postsecondary and Vocational Education or a successor agency becomes operative. The bill would require the board to post notice on its Internet Web site if the aforementioned conditions have been satisfied.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 4980.40.5 is added to the Business and Professions Code, to read:

3 4980.40.5. (a) Notwithstanding Section 4980.40 or any other provision of law, a A doctor's or master's degree in marriage, 5 family, and child counseling, marital and family therapy, 6 psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling, or marriage and family therapy, obtained from a school, 9 college, or university approved by the Bureau for Private 10 Postsecondary and Vocational Education as of June 30, 2007, shall 11 be considered by the board to meet the requirements necessary for 12 licensure as a marriage and family therapist and for registration as a marriage and family therapist intern provided that the degree 13 14 is conferred on or before December 31, 2011.

- (b) Notwithstanding Section 4980.40 or any other provision of law
- (b) As an alternative to meeting the qualifications specified in subdivision (a) of Section 4980.40, the board shall accept as equivalent degrees those doctor's or master's degrees that otherwise meet the other requirements of this chapter and are conferred by educational institutions located in California and accredited by any of the following associations:
 - (1) Northwest Association of Secondary and Higher Schools.

-3-**AB 1897**

(2) Middle States Association of Colleges and Secondary 2 Schools.

- (3) New England Association of Schools and Colleges.
- (4) North Central Association of Colleges and Secondary Schools.
 - (5) Southern Association of Colleges and Schools.
- (c) This section shall become inoperative upon enactment of legislation in the 2007-08 Regular Session that reestablishes the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code) or a successor act and the Bureau for Private Postsecondary and Vocational Education or a successor agency.
- (c) If legislation enacted in the 2007–08 Regular Session reestablishes the Private Postsecondary and Vocational Education Reform Act of 1989 (Chapter 7 (commencing with Section 94700) of Part 59 of Division 10 of Title 3 of the Education Code) or a successor act and the Bureau for Private Postsecondary and Vocational Education or a successor agency, this section shall become inoperative on the date that legislation becomes operative. The board shall post notice on its Internet Web site if the conditions

20 21 described in this subdivision have been satisfied.

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23 24 **CORRECTIONS:**

25 Digest-Page 1.

Text—Page 3. 26







1625 North Market Blvd., Suite S-200 Sacramento, CA 95834 (916) 574-7830, (916) 574-8625 Fax www.bbs.ca.gov

To: Policy and Advocacy Committee Date: July 1, 2008

From: Tracy Rhine Telephone: (916) 574-7847

Legislative Analyst

Subject: Review of Board Sponsored and Monitored Legislation

BOARD-SPONSORED LEGISLATION

AB 1897 (Emmerson)

This bill allows the Board to accept degrees for Marriage and Family Therapist (MFT) Intern registration or for MFT licensure from the following:

- Schools accredited by regional accrediting bodies that are equivalent to Western Association of Schools and Colleges (WASC); and,
- Schools that were approved by Bureau for Private Postsecondary and Vocational Education (BPPVE) (as of June 30, 2007) through December 31, 2011.

SB 1218 (Correa)

The bill makes a number of changes relating to the education requirements of MFTs, including:

- Permits MFT Interns to gain a portion of the required supervision via teleconferencing;
- Allows applicants to count experience for performing "client centered advocacy" activities toward licensure as a MFT;
- Requires applicants for MFT licensure to submit W-2 forms and verification of volunteer employment for each setting in which the applicant gained experience;
- Increases the graduate degree's total unit requirement from 48 to 60 semester units (72 to 90 quarter units);
- Increases the practicum by three semester units and 75 face-to-face counseling and client centered advocacy hours;
- Provides more flexibility in the degree program by requiring fewer specific hours or units for particular coursework, allowing for innovation in curriculum design; and,
- Deletes the requirement that an applicant licensed as an MFT for less than two years in another state to complete 250 hours of experience in California as an intern prior to applying for licensure.

SB 1505 (Yee)

This bill has been substantially amended and no longer relates to the Board.

SB 1779 (Committee on Business, Professions and Economic Development)

This proposal will permit Associate Clinical Social Workers (ASWs) to gain a portion of their supervision via teleconferencing and permit group supervision to be provided in one-hour increments, as long as both increments are provided in the same week as the experience claimed. This bill will also make several technical non substantive changes to the statutes relating to the Board.

LEGISLATION MONITORED BY THE BOARD

SB 164 (Smyth) Immunity for Marriage and Family Therapy Schools

This bill provides a qualified immunity for persons who communicate with a marriage and family therapy school, when the communication is intended to aid in the evaluation of the qualifications, fitness, character or insurability of the healing arts practitioner. The board's Policy and Advocacy Committee recommended a position of "support" to the full board, who, at its meeting on May 30, 2008, adopted the committee's recommendation. *Status: This bill has been signed by the Governor, Chapter 23, Statutes of 2008.*

AB 1486 (Calderon) Licensed Professionals Counselors (LPCs)

This bill provides for the licensure and regulation of Professional Counselors by the board. Although the board adopted a position of support on this bill last year, the Policy and Advocacy Committee recommended at its April 2008 meeting to recommend a new position of "support if amended." The Policy and Advocacy Committee recommended that the board continue to support the bill only if the author amended the bill to make the education curriculum for LPCs consistent with those contained in SB 1218 (Correa). The full board adopted the "support if amended" position on May 30, 2008. This bill has been substantially amended upon the board's request and now sets forth consistent education requirement to those contained in SB 1218 for MFTs. Status: This bill is pending hearing in Senate Appropriations Committee.

AB 1887 (Beall) Mental Health Parity

This bill requires health care service plan contracts which provide hospital, medical, or surgical coverage, and health insurance policies issued, amended or renewed on or after January 1, 2009 to provide coverage for the diagnosis and treatment of mental illness of a person of any age under the terms and conditions applied to other medical conditions. The board's Policy and Advocacy Committee recommended a position of "support" to the full board, who, at its meeting on May 30, 2008, adopted the committee's recommendation. *Status: This bill is pending hearing in Senate Appropriations Committee*.

AB 1922 (Hernandez) Peer Review

This bill adds MFTs and LCSWs to the list of healing arts practitioners defined as 'licentiates' under the peer review statutes relating to notice of final proposed action. The board's Policy and Advocacy Committee recommended a position of "support" to the full board, who, at its meeting on May 30, 2008, adopted the committee's recommendation. Status: *This bill has been signed by the Governor, Chapter 25, Statutes of 2008.*

AB 1925 (Eng) License Suspension for Unpaid Tax Liabilities

This bill allows the Franchise Tax Board (FTB) to suspend a license issued by the board if the licensee has failed to pay taxes for which a notice of state tax lien has been recorded by the county recorder's office. The board's Policy and Advocacy Committee recommended a position of "oppose unless amended" to the full board, who, at its meeting on May 30, 2008, adopted the committee's recommendation. The board has asked the author to amend the bill to allow the licensing entity that issued the license (the board) to suspend the license of an individual with

outstanding tax liabilities. Status: This bill is pending hearing in Senate Appropriations Committee.

AB 2543 (Berg) Geriatric and Gerontology Workforce Expansion Act

This bill establishes the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008. This program would provide loan assistance to MFTs, LCSWs, ASWs and MFT Interns who provide geriatric service in California. Funds for the loan repayment program would be derived from a \$10 surcharge added to license issuance and renewal fees. The board's Policy and Advocacy Committee recommended a position of "support if amended" to the full board, who, at its meeting on May 30, 2008, adopted the committee's recommendation. The author has substantially amended the bill at the board's request to make the proposed program utilize the current Licensed Mental Health Service Provider Education Program administration system. Status: *This bill is pending hearing in Senate Appropriations Committee*.

AB 239 (DeSaulnier) Alcoholism and Drug Abuse Counselors

This bill provides for the regulation and licensure of alcoholism and drug abuse counselors by the board. The Policy and Advocacy Committee considered AB 1367 (DeSaulnier), with similar content to this bill, for a position recommendation on January 18, 2008. The committee did not make a formal recommendation to the board and asked for more information to be provided at the next committee meeting. However, AB 1367 failed to pass out of Assembly Appropriations Committee in April and was no longer viable when the Policy and Advocacy Committee met next on April 11, 2008.

AB 239, was gutted of previous content on April 9, 2008 and amended to create licensure for alcoholism and drug abuse counselors. The current version of this bill includes many amendments taken by the sponsors to address issues discussed at the January Policy and Advocacy Committee meeting. The full board did not take a position on this legislation during its discussion of the bill on May 30, 2008, but instead tabled the discussion until the next meeting. Status: This bill is pending hearing in Senate Appropriations Committee.

SB 797 (Ridley-Thomas) Unprofessional Conduct; Statute of Limitations

This bill would permit the board to discipline a licensee or deny a license for certain sexual acts with a minor that occurred prior to the person being licensed. Currently, when a complaint is received regarding a person who is not yet registered or licensed with the board, the board can investigate and deny a registration or license, if warranted. However when a complaint is received regarding conduct prior to licensure <u>after</u> a person becomes licensed, the board cannot take any action. This legislation would correct this problem in cases where sexual misconduct with a minor is alleged, and only when there is corroborating evidence. This bill also would create a different statute of limitations for these types of complaints, and would require the board to file an accusation within three years. This bill also proposes a number of substantive and technical changes pertaining to programs and boards in the Department of Consumer Affairs. Status: This bill has been signed by the Governor, Chapter 33, Statutes of 2008.

SB 823 (Perata) Private, Postsecondary and Vocational Education

This bill would create a new regulatory structure and a new bureau within the Department of Consumer Affairs to regulate private postsecondary education. The Board has not taken a position on this legislation. *Status: This bill in pending on the Assembly floor.*

SB 963 (Ridley-Thomas) Oversight of DCA Boards and Bureaus

This bill eliminates the current sunset process for all DCA boards and instead provides for the reconstitution of all boards on statutorily set schedule. The reconstitution of the board is subject to the same sunset procedures currently in place – allowing the terms of the board members to be extended if legislation providing for the extension is signed by the Governor before the reconstitution. The Board has not taken a position on this legislation, but decided, at its November 2007 meeting, to develop recommendations regarding this legislation. This bill has

been substantially amended since that time. Status: This bill is pending hearing in Assembly Appropriations Committee.

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN ASSEMBLY MAY 23, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 7, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2543

Introduced by Assembly Member Berg (Coauthors: Assembly Members De La Torre and Dymally)

February 22, 2008

An act to add Sections—2815.2, 4984.76, 4984.76 and 4996.66 to the Business and Professions Code, and to amend Sections—128552 128454, 128552, and 128553 of,—to add Article 5 (commencing with Section 128305) and Article 6 (commencing with Section 128310) to Chapter 4 of Part 3 of Division 107 of, and to add Chapter 6 (commencing with Section 128559) to Part 3 of Division 107 of and to add Section 128459 to, the Health and Safety Code, relating to loan assistance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2543, as amended, Berg. Geriatric and Gerontology Workforce Expansion Act.

(1) Existing law provides for the licensure or registration and regulation of nurses, licensed and associate clinical social workers, marriage and family therapists, and marriage and family therapy interns

AB 2543 -2-

by-specified boards the Board of Behavioral Sciences. Existing law requires those persons to pay licensing and renewal fees for licensure, as specified.

Existing law provides for the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation, which provides grants for the repayment of loans to licensed mental health service providers serving in mental health professional shortage areas. The program is developed and operated by the foundation, which makes recommendations to the Director of Statewide Health Planning and Development for purposes of loan repayment contracts.

This bill would-establish enact the Geriatric and Gerontology Workforce Expansion Act, which would be administered by the Office of Statewide Health Planning and Development to provide grants for loan repayment assistance, on or after January 1, 2010, to-nurses, licensed and associate clinical social workers, marriage and family therapists, and registered marriage and family therapy interns who work in a geriatric care setting provide geriatric services, as specified defined. For those purposes, the bill would raise the licensing and renewal fees of these licensees by \$10, as specified, for deposit into the continuously appropriated funds of the boards described above Geriatric Social Workers and Marriage and Family Therapists Account, which would be established in the Mental Health Practitioner Education Fund as a continuously appropriated account within the fund, thereby making an appropriation. The bill would also require the foundation to make specified recommendations to the director concerning guidelines for the selection of applicants to the loan repayment program.

This bill would also establish the California Geriatric and Gerontology Student Loan Assistance Program of 2008, which would be administered by the Office of Statewide Health Planning and Development for purposes of providing loan assistance to students who intend to become employed as licensed health care professionals, licensed or associate elinical social workers, marriage and family therapists, or licensed marriage and family therapy interns in a geriatric care setting, as specified. Those provisions would only become operative if appropriate funding, as determined by the office, is made available. The bill would require the office to report annually to the appropriate policy and fiscal committees of the Legislature with regard to the program, as specified.

(2) Existing law establishes the Steven M. Thompson Physician Corps Loan Repayment Program in the California Physician Corps

-3- AB 2543

Program within the Health Professions Education Foundation, which provides financial incentives, as specified, to a physician and surgeon for practicing in a medically underserved community. Existing law authorizes requires the foundation to appoint a selection committee to provide policy direction and guidance over the program use guidelines developed by the Medical Board of California for selection and placement of program applicants until the Office of Statewide Health Planning and Development adopts other guidelines by regulation.

This bill would require that selection committee those guidelines to fill 15% of the available positions with include criteria that would give priority consideration to program applicants that who agree to practice in a geriatric care setting. These provisions would become operative only if AB 2439 is enacted and becomes effective on or before January 1, 2009.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- SECTION 1. This act shall be known and may be cited as the Geriatric and Gerontology Workforce Expansion Act.
 - SEC. 2. The Legislature finds and declares all of the following:
 - (a) The population of California is aging at an exponential rate with Californians who are 65 years of age or over reaching 6.5 million by 2010, which is over 14 percent of the total population, and reaching over 9 million by 2020.
 - (b) The greatest growth within the aging population will be those who are 85 years of age or older who will, by 2030, comprise one in five of California's older residents.
 - (c) As California ages, it will become more racially and ethnically diverse, with African Americans, Latinos, and Asian Americans exceeding 40 percent of the older adult population, many of whom were born outside the United States; meaning, therefore, that there is a greater need for those providing services to older adults to be bilingual or multilingual.
 - (d) It is the policy of the Mello-Granlund Older Californians Act (Division 8.5 (commencing with Section 9000) of the Welfare and Institutions Code) that older adults and those with disabilities live as independent from institutions as much as possible and as long as possible.

AB 2543 —4—

(e) It is the policy of the Mello-Granlund Older Californians Act (Division 8.5 (commencing with Section 9000) of the Welfare and Institutions Code) that to live independently, older Californians must have an array of home and community-based services, in conjunction with the federal Older Americans Act (42 U.S.C. Sec. 3001 et seq.), that support a quality of life and save taxpayer dollars in contrast to the cost of institutionalization.

- (f) In order to sustain an independent lifestyle for older adults, there must be trained gerontologists and health care professionals trained in geriatrics to address the social and health needs of older adults as they age.
- (g) At present, California faces a severe shortage of professional and paraprofessional gerontologists and geriatricians needed to operate programs and provide services for older adults. Currently, there is only one board-certified physician geriatrician per 4,000 Californians who are 65 years of age or older; and currently, only 5 percent of social workers are trained in gerontology or geriatrics, yet 62 percent of licensed social workers have, or have had, care management responsibilities.
- (h) Incentives for recruiting students into training for careers in gerontology and geriatrics must be developed in order to fill the gap between workforce supply and demand lest the state incur the greater cost of institutionalization and the quality of life for older Californians suffers.
- (i) Student loan forgiveness programs are a proven method of inducing health care professionals to pursue stipulated career fields for a specified time in exchange for loan assistance.
- SEC. 3. Section 2815.2 is added to the Business and Professions Code, to read:
- 2815.2. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 2815, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Registered Nurses Loan Assistance Program of 2008 (Article 5 (commencing with Section 128305) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the

5 AB 2543

Geriatric Registered Nurses Account, as provided in Section
 128305.4 of the Health and Safety Code.

SEC. 4.

SEC. 3. Section 4984.76 is added to the Business and Professions Code, to read:

4984.76. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4984.7, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this purposes of loan repayment under subdivision (d) of Section 128454 of the Health and Safety Code. Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and Marriage and Family Therapists Account, as provided in Section 128310.4 128459 of the Health and Safety Code.

SEC. 5.

SEC. 4. Section 4996.66 is added to the Business and Professions Code, to read:

4996.66. In addition to the fees charged for initial issuance or biennial renewal of a license pursuant to Section 4996.3, and at the time those fees are charged, the board shall charge each applicant or licensee an additional fee of ten dollars (\$10) for the purposes of the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008 (Article 6 (commencing with Section 128310) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code). Payment of this purposes of loan repayment under subdivision (d) of Section 128454 of the Health and Safety Code. Payment of this ten-dollar (\$10) fee shall be made at the time of application for initial licensure or biennial renewal. All fees collected pursuant to this section shall be deposited in the Geriatric Social Workers and Marriage and Family Therapists Account, as provided in Section 128310.4 128459 of the Health and Safety Code.

AB 2543 -6-

SEC. 6. Article 5 (commencing with Section 128305) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 5. California Geriatric Registered Nurses Loan Assistance Program of 2008

128305. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, medical schools, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older Californians, and members of the public with health care issue-area expertise, shall develop and implement the California Geriatric Registered Nurses Loan Assistance Program of 2008.

128305.2. For purposes of this article, the following terms have the following meanings:

- (a) "Account" means the Geriatric Registered Nurses Account that is contained within the fund.
 - (b) "Board" means the Board of Registered Nursing.
 - (c) "Fund" means the Board of Registered Nursing Fund.
- (d) "Geriatrics" means the practice of nursing, with training in, and application to, older adults who are 65 years of age or older or those with disabilities.
- (e) "Office" means the Office of Statewide Health Planning and Development.
- (f) "Program" means the California Geriatric Registered Nurses Loan Assistance Program of 2008.
- 128305.3. (a) Program applicants shall possess a current valid license to practice registered nursing in this state issued by the board pursuant to Section 2742 of the Business and Professions Code.
- 37 (b) The office shall develop the guidelines for selection and 38 placement of applicants. The guidelines shall do all of the 39 following:

7 AB 2543

(1) Provide priority consideration to applicants who are trained in, and practice, geriatric nursing, including, but not limited to, nurses with doctorate degrees in gerontology, geriatric nurse practitioners, and geriatric nurse clinicians, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

- (2) Give preference to applicants who have completed a residency in nursing.
- (3) Seek to place the most qualified applicants under this section in the areas with the greatest need.
- (4) Include a factor ensuring geographic distribution of placements.
- (5) Ensure that applicants may not discriminate against those who cannot pay for medical services or those who are funded, in part or in whole, by Medicare or Medi-Cal.
- (c) Program participants shall be working in, or have a signed agreement with, an eligible practice setting. The program participant shall have full-time status, as defined by the office. The office may establish exemptions to this requirement on a ease-by-case basis.
- (d) Program participants shall commit to a minimum of three years of service in a geriatric care setting. Leaves of absence shall be permitted for serious illnesses, pregnancy, or other natural causes. The office shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the nurse is back to full-time status.
- (e) The office shall develop the process to reconcile the loan should a nurse be unable to complete his or her three-year obligation.
- (f) The office shall develop a process for outreach to potentially eligible applicants.
- (g) The office may adopt any other standards of eligibility, placement, or termination appropriate to achieve the aim of providing competent health care services in geriatrics.
- 128305.4. (a) The Geriatric Registered Nurses Account is hereby created in the fund.
- (b) Funding for the account shall be from fees paid at the time of initial licensure or renewal pursuant to Section 2815.2 of the Business and Professions Code.

AB 2543 —8—

(e) Funds placed into the account shall be used by the office to repay the loans of program participants pursuant to agreements made under the program.

- (1) Funds paid out for loan repayment may have a funding match from foundation or other private sources.
- (2) Loan repayments shall not exceed thirty thousand dollars (\$30,000) per program participant.
- (3) Loan repayments shall not exceed the amount of the educational loans incurred by the program participant.
- (d) Notwithstanding Section 11005 of the Government Code, the office may seek and receive matching funds from foundations and private sources to be placed into the account. The office also may contract with an exempt foundation for the receipt of matching funds to be transferred to the account for use by this program.
- (e) The amount of loan repayment provided annually shall not exceed the funding made available pursuant to the increase in licensing fees described in subdivision (b) and pursuant to private donations, if any.
- 128305.5. The terms of loan repayment granted under this article shall be as follows:
- (a) After a program participant has completed one year of providing services as a registered nurse in a geriatric setting, the office shall provide up to seven thousand five hundred dollars (\$7,500) for loan repayment.
- (b) After a program participant has completed two consecutive years of providing services as a registered nurse in a geriatric setting, the office shall provide up to an additional ten thousand dollars (\$10,000) of loan repayment, for a total loan repayment of up to seventeen thousand five hundred dollars (\$17,500).
- (c) After a program participant has completed three consecutive years of providing services as a registered nurse in a geriatric setting, the office shall provide up to a maximum of an additional twelve thousand five hundred dollars (\$12,500) of loan repayment, for a total loan repayment of up to thirty thousand dollars (\$30,000).
- 128305.6. (a) On and after January 1, 2010, applications from registered nurses for program participation may be submitted.
- (b) The office may work in conjunction with the Health Professions Education Foundation for the implementation and administration of this program.

-9- AB 2543

(e) The office may promulgate emergency regulations to implement the program. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. Subsequent regulations shall meet the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 7. Article 6 (commencing with Section 128310) is added to Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, to read:

Article 6. California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008

128310. There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.1. It is the intent of this article that the office, in consultation with the board, the medical community, including representatives of ethnic minority groups, schools of social work, marriage and family counseling programs of study, health advocates, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded health programs targeting communities of older Californians, and members of the public with health care issue-area expertise, shall develop and implement the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.

128310.2. For purposes of this article, the following terms have the following meanings:

- (a) "Account" means the Geriatrie Social Workers and Marriage and Family Therapists Account that is contained within the fund.
 - (b) "Board" means the Board of Behavioral Sciences.
- (c) "Fund" means the Behavioral Sciences Fund.
- (d) "Geriatrics" means the practice of social work or marriage and family therapy, with training in, and application to, older adults who are 65 years of age or older or those with disabilities.

AB 2543 — 10 —

1 (e) "Office" means the Office of Statewide Health Planning and Development.

- (f) "Program" means the California Geriatric Social Workers and Marriage and Family Therapists Loan Assistance Program of 2008.
- 128310.3. (a) Program applicants shall be registered associate elinical social workers or registered marriage and family therapy interns receiving supervision or shall possess a current valid license to practice social work or marriage and family therapy in this state issued by the board pursuant to Section 4980.30 or 4996.1 of the Business and Professions Code.
- (b) The office shall develop the guidelines for selection and placement of applicants. The guidelines shall do all of the following:
- (1) Provide priority consideration to applicants who are trained in, and practice, geriatric social work or marriage and family therapy, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.
- (2) Provide priority consideration to applicants who have recently obtained their license to practice marriage and family therapy or clinical social work or are a registered associate clinical social worker or registered marriage and family therapy intern receiving supervision.
- (3) Give preference to applicants who have completed an internship in geriatric social work or marriage and family therapy.
- (4) Seek to place the most qualified applicants under this section in the areas with the greatest need.
- (5) Include a factor ensuring geographic distribution of placements.
- (6) Ensure that applicants may not discriminate against those who cannot pay for medical services or those who are funded, in part or in whole, by Medicare or Medi-Cal.
- (c) Program participants shall be working in, or have a signed agreement with, an eligible practice setting. The program participant shall have full-time status, as defined by the office. The office may establish exemptions to this requirement on a ease-by-case basis.
- (d) Program participants shall commit to a minimum of three years of service in a geriatric care setting. Leaves of absence shall be permitted for serious illnesses, pregnancy, or other natural

-11- AB 2543

causes. The office shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the participant is back to full-time status.

- (e) The office shall develop the process to reconcile the loan should a participant be unable to complete his or her three-year obligation.
- (f) The office shall develop a process for outreach to potentially eligible applicants.
- (g) The office may adopt any other standards of eligibility, placement, or termination appropriate to achieve the aim of providing competent social services in geriatries.
- 128310.4. (a) The Geriatric Social Workers and Marriage and Family Therapists Account is hereby created in the fund.
- (b) Funding for the account shall be from fees paid at the time of initial licensure or renewal pursuant to Sections 4984.76 and 4996.66 of the Business and Professions Code.
- (c) Funds placed into the account shall be used by the office to repay the loans of program participants pursuant to agreements made under the program.
- (1) Funds paid out for loan repayment may have a funding match from foundation or other private sources.
- (2) Loan repayments shall not exceed thirty thousand dollars (\$30,000) per program participant.
- (3) Loan repayments shall not exceed the amount of the educational loans incurred by the program participant.
- (d) Notwithstanding Section 11005 of the Government Code, the office may seek and receive matching funds from foundations and private sources to be placed into the account. The office also may contract with an exempt foundation for the receipt of matching funds to be transferred to the account for use by this program.
- (e) The amount of loan repayment provided annually shall not exceed the funding made available pursuant to the increase in licensing fees described in subdivision (b) and pursuant to private donations, if any.
- 128310.5. The terms of loan repayment granted under this article shall be as follows:
- (a) After a program participant has completed one year of providing services as a licensed marriage and family therapist or a registered marriage and family therapy intern, or a licensed or

— 12 — AB 2543

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associate clinical social worker in a geriatric setting, the office 2 shall provide up to seven thousand five hundred dollars (\$7,500) 3 for loan repayment.

- (b) After a program participant has completed two consecutive years of providing services as a licensed marriage and family therapist or a registered marriage and family therapy intern, or a licensed or associate clinical social worker in a geriatric setting, the office shall provide up to an additional ten thousand dollars (\$10,000) of loan repayment, for a total loan repayment of up to seventeen thousand five hundred dollars (\$17,500).
- (c) After a program participant has completed three consecutive years of providing services as a licensed marriage and family therapist or a registered marriage and family therapy intern, or a licensed or associate clinical social worker in a geriatric setting, the office shall provide up to a maximum of an additional twelve thousand five hundred dollars (\$12,500) of loan repayment, for a total loan repayment of up to thirty thousand dollars (\$30,000).
- 128310.6. (a) On and after January 1, 2010, applications from marriage and family therapists, registered marriage and family therapy interns, registered associate social workers, and licensed social workers for program participation may be submitted.
- (b) The office may work in conjunction with the Health Professions Education Fund in the implementation and administration of this program.
- (c) The office may promulgate emergency regulations to implement the program. The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, and general welfare. Subsequent regulations shall meet the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
- SEC. 5. Section 128454 of the Health and Safety Code is amended to read:
- 128454. (a) There is hereby created the Licensed Mental Health Service Provider Education Program within the Health Professions Education Foundation.
- 39 (b) For purposes of this article, the following definitions shall 40 apply:

-13- AB 2543

(1) "Geriatric service provider" means a registered associate clinical social worker or registered marriage and family therapy intern receiving supervision or a clinical social worker or marriage and family therapist who possesses a current valid license issued by the Board of Behavioral Sciences and provides geriatric services.

- (2) "Geriatric services" means the practice of social work or marriage and family therapy with training in, and application to, adults who are 65 years of age or older or those with disabilities.
- (3) "Licensed mental health service provider" means a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code, or employed pursuant to a State Department of Mental Health waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, and associate clinical social worker.

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- (4) "Mental health professional shortage area" means an area designated as such by the Health Resources and Services Administration (HRSA) of the United States Department of Health and Human Services.
- (c) Commencing January 1, 2005, any licensed mental health service provider, including a mental health service provider who is employed at a publicly funded mental health facility or a public or nonprofit private mental health facility that contracts with a county mental health entity or facility to provide mental health services, who provides direct patient care in a publicly funded facility or a mental health professional shortage area may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed mental health service provider.
- (d) On and after January 1, 2010, any geriatric service provider may apply for grants under the program to reimburse his or her educational loans related to a career as a licensed marriage and family therapist or intern or licensed clinical social worker.
- (e) The Health Professions Education Foundation shall make recommendations to the director of the office concerning the

— 14 — AB 2543

> guidelines for the selection of applicants who meet the requirements of subdivision (d). The guidelines shall do all of the *following:*

- (1) Provide priority consideration to applicants who are trained in, and practice, geriatric social work or marriage and family therapy and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.
- (2) Provide priority consideration to applicants who have recently obtained a license to practice marriage and family therapy or clinical social work or are registered as an associate clinical social worker or registered marriage and family therapy intern receiving supervision.
- (3) Give preference to applicants who have completed an internship in geriatric social work or marriage and family therapy.
- (4) Seek to place the most qualified applicants under subdivision (d) in the areas with the greatest need.
- (5) Include a factor ensuring geographic distribution of 17 18 placements. 19

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- (f) The Health Professions Education Foundation shall make recommendations to the director of the office concerning all of the following:
- (1) A standard contractual agreement to be signed by the director and any licensed mental health service provider or geriatric service provider who is serving in a publicly funded facility or a mental health professional shortage area that would require the licensed mental health service provider or geriatric service provider who receives a grant under the program to work in the publicly funded facility or a mental health professional shortage area for at least one year.
- (2) The maximum allowable total grant amount per individual licensed mental health service provider or geriatric service provider.
- (3) The maximum allowable annual grant amount per individual licensed mental health service provider or geriatric service provider.

(e)

(g) The Health Professions Education Foundation shall develop the program, which shall comply with all of the following requirements:

__15__ AB 2543

(1) The total amount of grants under the program per individual licensed mental health service provider or geriatric service provider shall not exceed the amount of educational loans related to a career as a licensed mental health service provider or geriatric service provider incurred by that provider.

- (2) The program shall keep the fees from the different licensed providers separate to ensure that all grants are funded by those fees collected from the corresponding licensed provider groups.
- (3) A loan forgiveness grant may be provided in installments proportionate to the amount of the service obligation that has been completed.
- (4) The number of persons who may be considered for the program shall be limited by the funds made available pursuant to Section 128458.
- SEC. 6. Section 128459 is added to the Health and Safety Code, to read:
- 128459. There is hereby established in the Mental Health Practitioner Education Fund the Geriatric Social Workers and Marriage and Family Therapists Account. Notwithstanding Section 13340 of the Government Code, the moneys in the account shall be continuously appropriated for expenditure by the Office of Statewide Health Planning and Development for purposes of this article and pursuant to requirements described in paragraph (2) of subdivision (g) of Section 128454.

SEC. 8.

- SEC. 7. Section 128552 of the Health and Safety Code is amended to read:
- 128552. For purposes of this article, the following definitions shall apply:
- (a) "Account" means the Medically Underserved Account for Physicians established within the Health Professions Education Fund pursuant to this article.
- 33 (b) "Foundation" means the Health Professions Education 34 Foundation.
 - (c) "Fund" means the Health Professions Education Fund.
 - (d) "Medi-Cal threshold languages" means primary languages spoken by limited-English-proficient (LEP) population groups meeting a numeric threshold of 3,000, eligible LEP Medi-Cal beneficiaries residing in a county, 1,000 Medi-Cal eligible LEP

AB 2543 — 16—

beneficiaries residing in a single ZIP Code, or 1,500 LEP Medi-Cal
 beneficiaries residing in two contiguous ZIP Codes.

- 3 (e) "Medically underserved area" means an area defined as a
 4 health professional shortage area in Part 5 of Subchapter A of
 5 Chapter 1 of Title 42 of the Code of Federal Regulations or an
 6 area of the state where unmet priority needs for physicians exist
 7 as determined by the California Healthcare Workforce Policy
 8 Commission pursuant to Section 128225.
 - (f) "Medically underserved population" means the Medi-Cal program, Healthy Families Program, and uninsured populations.
 - (g) "Office" means the Office of Statewide Health Planning and Development (OSHPD).
 - (h) "Physician Volunteer Program" means the Physician Volunteer Registry Program established by the Medical Board of California.
 - (i) "Practice setting" means either of the following:
 - (1) A community clinic as defined in subdivision (a) of Section 1204 and subdivision (c) of Section 1206, a clinic owned or operated by a public hospital and health system, or a clinic owned and operated by a hospital that maintains the primary contract with a county government to fulfill the county's role pursuant to Section 17000 of the Welfare and Institutions Code, which is located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.
 - (2) A medical practice located in a medically underserved area and at least 50 percent of whose patients are from a medically underserved population.
 - (j) "Primary specialty" means family practice, internal medicine, pediatrics, geriatrics, or obstetrics/gynecology.
 - (k) "Program" means the Steven M. Thompson Physician Corps Loan Repayment Program.
 - (*l*) "Selection committee" means a minimum three-member committee of the board, that includes a member that was appointed by the Medical Board of California.
 - SEC. 9.

- 36 SEC. 8. Section 128553 of the Health and Safety Code is amended to read:
- 38 128553. (a) Program applicants shall possess a current valid 39 license to practice medicine in this state issued pursuant to Section 40 2050 of the Business and Professions Code.

—17 — AB 2543

(b) The foundation, in consultation with those identified in subdivision (b) of Section 123551, shall use guidelines developed by the Medical Board of California for selection and placement of applicants until the office adopts other guidelines by regulation.

- (c) The guidelines shall meet all of the following criteria:
- (1) Provide priority consideration to applicants that are best suited to meet the cultural and linguistic needs and demands of patients from medically underserved populations and who meet one or more of the following criteria:
 - (A) Speak a Medi-Cal threshold language.

- (B) Come from an economically disadvantaged background.
- (C) Have received significant training in cultural and linguistically appropriate service delivery.
- (D) Have three years of experience working in medically underserved areas or with medically underserved populations.
 - (E) Have recently obtained a license to practice medicine.
- (2) Include a process for determining the needs for physician services identified by the practice setting and for ensuring that the practice setting meets the definition specified in subdivision (h) of Section 128552.
- (3) Give preference to applicants who have completed a three-year residency in a primary specialty.
- (4) Seek to place the most qualified applicants under this section in the areas with the greatest need.
- (5) Include a factor ensuring geographic distribution of placements.
- (6) Provide priority consideration to applicants who agree to practice in a geriatric care setting and are trained in geriatrics, and who can meet the cultural and linguistic needs and demands of a diverse population of older Californians.
- (d) (1) The foundation may appoint a selection committee that provides policy direction and guidance over the program and that complies with the requirements of subdivision (*l*) of Section 128552.
- (2) The selection committee may fill up to 20 percent of the available positions with program applicants from specialties outside of the primary care specialties.
- (3) The selection committee shall fill 15 percent of the available positions with program applicants that agree to practice in a geriatric care setting. Priority consideration shall be given to

AB 2543 -18-

applicants who are trained in, and practice, geriatries, and who can meet the cultural and linguistic needs and demands of diverse populations of older Californians.

- (e) Program participants shall meet all of the following requirements:
- (1) Shall be working in or have a signed agreement with an eligible practice setting.
- (2) Shall have full-time status at the practice setting. Full-time status shall be defined by the board and the selection committee may establish exemptions from this requirement on a case-by-case basis.
- (3) Shall commit to a minimum of three years of service in a medically underserved area. Leaves of absence shall be permitted for serious illness, pregnancy, or other natural causes. The selection committee shall develop the process for determining the maximum permissible length of an absence and the process for reinstatement. Loan repayment shall be deferred until the physician is back to full-time status.
- (f) The office shall adopt a process to reconcile the loan should a physician be unable to complete his or her three-year obligation.
- (g) The foundation, in consultation with those identified in subdivision (b) of Section 128551, shall develop a process for outreach to potentially eligible applicants.
- (h) The foundation may recommend to the office any other standards of eligibility, placement, and termination appropriate to achieve the aim of providing competent health care services in approved practice settings.
- SEC. 10. Chapter 6 (commencing with Section 128559) is added to Part 3 of Division 107 of the Health and Safety Code, to read:

CHAPTER 6. CALIFORNIA GERIATRIC AND GERONTOLOGY STUDENT LOAN ASSISTANCE PROGRAM OF 2008

128559. This chapter shall be known and may be cited as the California Geriatric and Gerontology Student Loan Assistance Program of 2008.

128559.1. It is the intent of this chapter that the Office of Statewide Health Planning and Development, in consultation with the Medical Board of California, state allied health professional

-19 - AB 2543

and behavioral sciences licensing boards, postsecondary schools of health sciences and social work, health advocates representing diverse ethnic communities, primary care clinics, public hospitals and health care systems, statewide agencies administering state and federally funded programs targeting treatment and services for older adults, and members of the public with health care issue-area expertise, shall develop and implement the program.

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128559.2. (a) There is hereby established in the Office of Statewide Health Planning and Development, the California Geriatric and Gerontology Student Loan Assistance Program of 2008.

- (b) The Office of Statewide Health Planning and Development shall operate the program in accordance with, but not limited to, the following:
- (1) Increased efforts in educating students trained in geriatries and gerontology of the need for health care and social work professionals to meet the demands of the exponential increase in the older adult population, and of programs that are available that provide incentives, financial and otherwise, to practice in settings and areas in need.
- (2) Strategic collaboration with California postsecondary schools of health sciences and social work, and marriage and family therapy programs of study, to better prepare health care professionals and social workers to meet the distinctive cultural and medical needs of California's older adult populations.
- (3) Establish, encourage, and expand programs for students of the health care and mental health professions for mentoring at primary and secondary schools, and college levels to increase the number of students entering the studies of health professions and social work with a concentration in geriatrics or gerontology.
- (4) Administer financial or other incentives to encourage new or experienced health care professionals and social workers to practice in the fields of geriatries and gerontology.

128559.3. For purposes of this chapter:

- (a) "Office" means the Office of Statewide Health Planning and Development.
- (b) "Program" means the California Geriatric and Gerontology Student Loan Assistance Program of 2008.
- 128559.4. (a) The office shall administer the program. Any individual enrolled in an institution of postsecondary education

AB 2543 -20-

participating in the programs set forth in this chapter may be eligible to receive a conditional warrant for loan repayment, to be redeemed upon becoming employed as a licensed health professional, marriage and family therapist or registered marriage and family therapy intern, or social worker or registered associate social worker in a setting serving primarily older adult populations. In order to be eligible to receive a conditional loan repayment warrant, an applicant shall satisfy all of the following conditions:

(1) The applicant has been judged by his or her postsecondary

- (1) The applicant has been judged by his or her postsecondary institution to have outstanding ability on the basis of criteria that may include, but not be limited to, any of the following:
- (A) Grade point average.
- 13 (B) Test scores.

- (C) Faculty evaluations.
- 15 (D) Interviews.
- 16 (E) Other recommendations.
 - (2) In order to meet the costs associated with obtaining a health professional or social work degree, the applicant has received, or is approved to receive, a loan under one or more of the following designated loan programs:
 - (A) The Federal Family Education Loan Program (10 U.S.C. Sec. 1071 et seq.).
 - (B) Any loan program approved by the Student Aid Commission.
 - (3) The applicant has agreed to provide services as a licensed health professional, marriage and family therapist, or social worker, or to be registered as an associate clinical social worker with satisfactory progress toward licensure, for up to three consecutive years, after obtaining a license or associate registration from the applicable state health professional or behavioral sciences licensing board, in a setting providing health or social services primarily to older adults.
 - (4) The applicant has agreed that he or she shall not discriminate against any patient or client who cannot pay for services or those who are funded, in part or in whole, by Medicare or Medi-Cal.
 - (b) The office shall ensure that priority consideration be given to applicants who are best suited to meet the cultural and linguistic needs and demands of geriatric populations and who meet one or more of the following criteria:

—21— AB 2543

(1) Have received significant training in cultural and linguistically appropriate service delivery.

- (2) Have done a clinical rotation or social work internship, of at least two semesters, serving older adult populations.
- (c) A person participating in the program pursuant to this chapter shall not receive more than one warrant.
- (d) The office shall adopt rules and regulations regarding the reallocation of warrants if a participating institution is unable to utilize its allocated warrants or is unable to distribute them within a reasonable time period.
- 128559.5. (a) The office shall develop the process to redeem an applicant's warrant and commence loan repayment.
- (b) The office shall distribute student applications to participate in the program to postsecondary institutions eligible to participate in the state and federal financial aid programs and that have a program of professional preparation for health care professionals, social workers, or marriage and family therapists.
- (c) Each participating institution shall sign an institutional agreement with the office, certifying its intent to administer the program according to all applicable published rules, regulations, and guidelines, and shall make special efforts to notify students regarding the availability of the program particularly to economically disadvantaged students.
- (d) To the extent feasible, the office and each participating institution shall coordinate this program with other existing programs designed to recruit or encourage students to enter the health care, social work, or marriage and family therapy profession. These programs shall include, but not be limited to, the following:
- (1) The Song-Brown Family Physician Training Act (Article 1 (commencing with Section 128200) of Chapter 4).
- (2) The Health Education and Academic Loan Act (Article 2 (commencing with Section 128250) of Chapter 4).
 - (3) The National Health Service Corps.
- 128559.6. (a) The office shall administer the program and shall adopt rules and regulations for that purpose. The rules and regulations shall include, but not be limited to, provisions regarding the period of time for which a warrant shall remain valid, the reallocation of warrants that are not utilized, and the development of projections for funding purposes.

AB 2543 -22-

(b) The office shall work in conjunction with lenders participating in federal or similar loan programs to develop a streamlined application process for participation in the program.

128559.7. (a) The office shall establish a fund to utilize for the purposes of this chapter.

- (b) The office may seek matching funds from foundations and private sources. The office may also contract with an exempt foundation for the receipt of matching funds to be transferred to the fund for use by this program.
- (c) The provisions of this chapter shall not become operative unless appropriate funding, as determined by the office, is made available.
- 128559.8. (a) On or before January 31 of each year, the office shall provide an annual report to the appropriate policy and fiscal committees of the Legislature regarding the program that includes all of the following:
 - (1) The number of program participants by profession.
- (2) Practice locations.
- 19 (3) The amount expended for the program.
- 20 (4) Information on annual performance reviews by the practice setting and program participants.
 - (5) An evaluation of the program's effectiveness in improving access to health and social services for older adults.
 - (6) Recommendations for maintaining or expanding the program.
 - (b) This section shall become operative on January 1, 2010.
 - SEC. 11. Sections 8 and 9 of this act shall become operative only if Assembly Bill 2439 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009.

AMENDED IN ASSEMBLY JUNE 23, 2008 AMENDED IN ASSEMBLY MAY 23, 2008 AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1218

Introduced by Senator Correa

February 14, 2008

An act to amend Sections 28, 4980.02, 4980.03, 4980.35, 4980.38, 4980.40, 4980.43, 4980.44, 4980.50, and 4980.54 of, to amend and repeal Sections 4980.37, 4980.39, 4980.41, 4980.80, and 4980.90 of, and to add Sections 4980.36, 4980.72, 4980.74, 4980.76, and 4980.78 to, the Business and Professions Code, to amend Section 1010 of the Evidence Code, to amend Sections 6924 and 6929 of the Family Code, and to amend Sections 1277 and 123115 of the Health and Safety Code, relating to marriage and family therapy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1218, as amended, Correa. Marriage and family therapy: licensure and registration.

Existing law provides for the licensure or registration and regulation of marriage and family therapists and interns by the Board of Behavioral Sciences and requires that applicants for licensure or registration, among other requirements, possess a doctor's or master's degree from a specified school, college, or university, containing no less than 48 semester or 72 quarter units of instruction in specified areas. Existing law requires that the doctor's or master's degree program contain no less than 6 semester or 9 quarter units of supervised practicum, as specified, and requires that the practicum include a minimum of 150 hours of face-to-face experience counseling individuals, couples,

SB 1218 -2-

families, or groups. Existing law also requires the degree program to satisfy certain criteria in order to meet the educational qualifications for licensure.

This bill would limit the application of these requirements to applicants for licensure or registration who begin graduate study before August 1, 2012, and would impose additional requirements on applicants who do not complete that study on or before December 31, 2018, on applicants who graduate from a degree program that meets those requirements, and on those who begin graduate study on or after August 1, 2012. The bill would require that these applicants, among other things, possess a doctor's or master's degree containing no less than 60 semester or 90 quarter units of instruction in certain areas, including, but not limited to, co-occurring disorders, multicultural development and cross-cultural interaction, and an understanding of the effects of socioeconomic status on treatment and available resources, as specified. The bill would require that these units include 6 semester or 9 quarter units of practicum that provides training in specified areas and includes a minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. The bill would additionally, with respect to these applicants, revise the requirements needed for the degree program to meet the educational qualifications for licensure, as specified. The bill would make other conforming changes and enact related provisions.

Existing law requires that applicants for licensure have at least 2 years of experience that complies with certain requirements. Among other things, the applicant must have no more than a total of 1,000 hours of experience for direct supervisor contact and professional enrichment activities and no more than 250 hours of postdegree experience administering and evaluating psychological tests, writing clinical reports, writing progress reports, or writing process notes.

This bill would instead require that the applicant have no more than 1,250 hours of experience for specified related professional enrichment activities, including, but not limited to, no more than 250 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress reports, or writing process notes.

Existing law requires that all applicants, trainees, and registrants be at all times under the supervision of a supervisor and requires that supervision include at least one hour of direct supervisor contact, as defined, in each week for which experience is credited in each work _3_ SB 1218

setting. Existing law requires that supervised experience be gained by interns either as an employee or as a volunteer.

This bill would revise the definition of one hour of direct supervisor contact and require that this one hour be conducted within the same week as the hours claimed. The bill would require that group supervision be provided in segments lasting no less than one continuous hour and would authorize an intern working in a governmental entity or a nonprofit and charitable institution, among others, to obtain up to 30 hours of the required weekly direct supervisor contact via videoconferencing, as specified. The bill would also require that, upon application for licensure, employed interns provide the board with copies of the corresponding W-2 tax forms and that volunteering interns provide the board with a letter verifying that volunteer work, as specified.

Existing law authorizes the board to issue a license to a person who has held for at least 2 years a valid license issued by a board of marriage counselor examiners, or corresponding authority of any state, if, among other requirements, the education and supervised experience requirements are substantially equivalent. Existing law requires the board to accept experience gained outside of California toward the licensure requirements if it is substantially equivalent and the applicant has gained a specified number of hours of supervised experience in direct counseling within California while registered with the board as an intern. Existing law also requires the board to accept education gained outside of California toward the licensure requirements if it is substantially equivalent, as specified, and the applicant completes certain coursework or training. If an applicant's education does not contain the content or units required to obtain a license, existing law authorizes the board to accept the applicant's education as substantially equivalent if, among other requirements, the applicant remediates the deficiency by completing the course content or units required to obtain a license.

This bill would instead specify that the applicant remediate the deficiency by completing the content and units required to obtain a license. The bill would also repeal the provisions relating to licenses, experience, and education gained outside California on January 1, 2014, and would revise the requirements applicable to persons applying for a license after that date. Among other things, the bill would revise the requirements needed for a person's education to be substantially equivalent, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

SB 1218 —4—

The people of the State of California do enact as follows:

SECTION 1. Section 28 of the Business and Professions Code is amended to read:

28. The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child abuse which will ameliorate, reduce, and eliminate the trauma of child abuse and neglect and ensure the reporting of child abuse in a timely manner to prevent additional occurrences.

The Board of Psychology and the Board of Behavioral Sciences shall establish required training in the area of child abuse assessment and reporting for all persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage and family therapist on or after January 1, 1987. This training shall be required one time only for all persons applying for initial licensure or for licensure renewal on or after January 1, 1987.

All persons applying for initial licensure and renewal of a license as a psychologist, clinical social worker, or marriage and family therapist on or after January 1, 1987, shall, in addition to all other requirements for licensure or renewal, have completed coursework or training in child abuse assessment and reporting which meets the requirements of this section, including detailed knowledge of Section 11165 of the Penal Code. The training shall meet all of the following requirements:

- (a) Be completed after January 1, 1983.
- (b) Be obtained from one of the following sources:
- (1) An accredited or approved educational institution, as defined in Sections 2902, 4980.36, 4980.37, and 4996.18, including extension courses offered by those institutions.
- 32 (2) A continuing education provider approved by the responsible 33 board.
 - (3) A course sponsored or offered by a professional association or a local, county, or state department of health or mental health for continuing education and approved by the responsible board.
 - (c) Have a minimum of seven contact hours.

5 SB 1218

(d) Include the study of the assessment and method of reporting of sexual assault, neglect, severe neglect, general neglect, willful cruelty or unjustifiable punishment, corporal punishment or injury, and abuse in out-of-home care. The training shall also include physical and behavioral indicators of abuse, crisis counseling techniques, community resources, rights and responsibilities of reporting, consequences of failure to report, caring for a child's needs after a report is made, sensitivity to previously abused children and adults, and implications and methods of treatment for children and adults.

(e) An applicant shall provide the appropriate board with documentation of completion of the required child abuse training.

The Board of Psychology and the Board of Behavioral Sciences shall exempt an applicant who applies for an exemption from the requirements of this section and who shows to the satisfaction of the board that there would be no need for the training in his or her practice because of the nature of that practice.

It is the intent of the Legislature that a person licensed as a psychologist, clinical social worker, or marriage and family therapist have minimal but appropriate training in the areas of child abuse assessment and reporting. It is not intended that by solely complying with the requirements of this section, a practitioner is fully trained in the subject of treatment of child abuse victims and abusers.

- (f) This section shall become operative on January 1, 1997.
- SEC. 2. Section 4980.02 of the Business and Professions Code is amended to read:

4980.02. For the purposes of this chapter, the practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the

SB 1218 -6-

1 coursework and training required by Sections 4980.36, 4980.37, 2 and 4980.41, as applicable.

- SEC. 3. Section 4980.03 of the Business and Professions Code is amended to read:
- 4980.03. (a) "Board," as used in this chapter, means the Board of Behavioral Sciences.
- (b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.
- (c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Sections 4980.36 and 4980.37, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.
- (d) "Applicant," as used in this chapter, means an unlicensed person who has completed a master's or doctoral degree program, as specified in Sections 4980.36 and 4980.37, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the board as an intern, and is currently in the examination process.
- (e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.
- (f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, and professional enrichment activities that satisfies the requirement for licensure as a marriage and family therapist pursuant to Section 4980.40.
- (g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:

7 SB 1218

(1) Has been licensed by a state regulatory agency for at least two years as a marriage and family therapist, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.

- (2) Has not provided therapeutic services to the trainee or intern.
- (3) Has a current and valid license that is not under suspension or probation.
- (4) Complies with supervision requirements established by this chapter and by board regulations.
- (h) "Client centered advocacy," as used in this chapter, includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.
- SEC. 4. Section 4980.35 of the Business and Professions Code is amended to read:
- 4980.35. (a) The Legislature acknowledges that the basic obligation to provide a complete and accurate application for a marriage and family therapist license lies with the applicant. At the same time, the Legislature recognizes that an effort should be made by the board to ensure that persons who enter degree programs and supervisorial training settings that meet the requirements of this chapter are enabled to discern the requirements for licensing and to take the examination when they have completed their educational and experience requirements.
- (b) In order that the board, the educational institutions, and the supervisors who monitor the education and experience of applicants for licensure may develop greater cooperation, the board shall do all of the following:
- (1) Apply a portion of its limited resources specifically to the task of communicating information about its activities, the requirements and qualifications for licensure, and the practice of marriage and family therapy to the relevant educational institutions, supervisors, professional associations, applicants, trainees, interns, and the consuming public.
- (2) Develop policies and procedures to assist educational institutions in meeting the curricula requirements of Sections 4980.36 and 4980.37 and any regulations adopted pursuant to those sections, so that those educational institutions may better provide assurance to their students that the curriculum offered to fulfill the

SB 1218 -8-

educational requirements for licensure will meet those requirements at the time of the student's application for licensure.

- (3) Notify applicants in the application procedure when applications are incomplete, inaccurate, or deficient, and inform applicants of any remediation, reconsideration, or appeal procedures that may be applicable.
- (4) Undertake, or cause to be undertaken, further comprehensive review, in consultation with educational institutions, professional associations, supervisors, interns, and trainees, of the supervision of interns and trainees, which shall include, but not be limited to, the following, and shall propose regulations regarding the supervision of interns and trainees which may include, but not be limited to, the following:
 - (A) Supervisor qualifications.
 - (B) Continuing education requirements of supervisors.
 - (C) Registration or licensing of supervisors, or both.
 - (D) Responsibilities of supervisors in general.
- (E) The board's authority in cases of noncompliance or negligence by supervisors.
- (F) The intern's and trainee's need for guidance in selecting well-balanced and high quality professional training opportunities within his or her community.
- (G) The role of the supervisor in advising and encouraging his or her intern or trainee regarding the necessity or value and appropriateness of the intern or trainee engaging in personal psychotherapy, so as to enable the intern or trainee to become a more competent marriage and family therapist.
- SEC. 5. Section 4980.36 is added to the Business and Professions Code, to read:
 - 4980.36. (a) This section shall apply to the following:
- (1) Applicants for licensure or registration who begin graduate study before August 1, 2012, and do not complete that study on or before December 31, 2018.
- (2) Applicants for licensure or registration who begin graduate study before August 1, 2012, and who graduate from a degree program that meets the requirements of this section.
- (3) Applicants for licensure or registration who begin graduate study on or after August 1, 2012.
- 39 (b) To qualify for a license or registration, applicants shall 40 possess a doctor's or master's degree meeting the requirements of

-9- SB 1218

- 1 this section in marriage, family, and child counseling, marital and
- 2 family therapy, psychology, clinical psychology, counseling
- 3 psychology, or counseling with an emphasis in either marriage,
- 4 family, and child counseling or marriage and family therapy,
- 5 obtained from a school, college, or university approved by the
- 6 Bureau for Private Postsecondary and Vocational Education or
- 7 accredited by either the Commission on the Accreditation of
- 8 Marriage and Family Therapy Education or the Western
- Association of Schools and Colleges. The board has the authority
- 10 to make the final determination as to whether a degree meets all
- 11 requirements, including, but not limited to, course requirements,
- 12 regardless of accreditation or approval.

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- (c) A doctor's or master's degree program that qualifies for licensure or registration shall do the following:
 - (1) Integrate all of the following throughout its curriculum:
 - (A) Marriage and family therapy principles.
- (B) The principles of mental health recovery-oriented care and methods of service delivery in recovery-oriented practice environments, among others.
- (C) An understanding of various cultures and the social and psychological implications of socioeconomic position, including an understanding of how poverty and social stress impact an individual's mental health and recovery.
- (2) Allow for innovation and individuality in the education of marriage and family therapists.
- (3) Encourage students to develop the personal qualities that are intimately related to effective practice, including, but not limited to, integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (4) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.
- (5) Provide students with the opportunity to meet with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
- (d) The degree described in subdivision (b) shall contain no less than 60 semester or 90 quarter units of instruction that includes, but is not limited to, the following requirements:

SB 1218 — 10 —

(1) Both of the following:

- (A) No less than 12 semester or 18 quarter units of coursework in theories, principles, and methods of a variety of psychotherapeutic orientations directly related to marriage and family therapy and marital and family systems approaches to treatment and how these theories can be applied therapeutically with individuals, couples, families, adults, children, adolescents, and groups to improve, restore, or maintain healthy relationships.
 - (B) Practicum that involves direct client contact, as follows:
- (i) A minimum of six semester or nine quarter units of practicum in a supervised clinical placement that provides supervised fieldwork experience.
- (ii) A minimum of 225 hours of face-to-face experience counseling individuals, couples, families, or groups. Up to 75 of those hours may be gained performing client centered advocacy, as defined in Section 4980.03.
- (iii) A student must be enrolled in a practicum course while counseling clients.
- (iv) The practicum shall provide training in all of the following areas:
 - (I) Applied use of theory and psychotherapeutic techniques.
 - (II) Assessment, diagnosis, and prognosis.
- (III) Treatment of individuals and premarital, couple, family, and child relationships, including trauma and abuse, dysfunctions, healthy functioning, health promotion, illness prevention, and working with families.
- (IV) Professional writing, including documentation of services, treatment plans, and progress notes.
- (V) How to connect people with resources that deliver the quality of services and support needed in the community.
- (v) Educational institutions are encouraged to design the practicum required by this subparagraph to include marriage and family therapy experience in low-income and multicultural mental health settings.
 - (2) Instruction in all of the following:
- (A) Diagnosis, assessment, prognosis, and treatment of mental disorders, including severe mental disorders, evidence-based practices, psychological testing, psychopharmacology, and promising mental health practices that are evaluated in peer reviewed literature.

—11— SB 1218

(B) Developmental issues from infancy to old age, including instruction in all of the following areas:

- (i) The effects of developmental issues on individuals, couples, and family relationships.
- (ii) The psychological, psychotherapeutic, and health implications of developmental issues and their effects.
- (iii) Aging and its biological, social, cognitive, and psychological aspects.
 - (iv) A variety of cultural understandings of human development.
- (v) The understanding of human behavior within the social context of socioeconomic status and other contextual issues affecting social position.
- (vi) The understanding of human behavior within the social context of a representative variety of the cultures found within California.
- (vii) The understanding of the impact that personal and social insecurity, social stress, low educational levels, inadequate housing, and malnutrition have on human development.
- (C) The broad range of matters and life events that may arise within marriage and family relationships and within a variety of California cultures, including instruction in all of the following:
 - (i) Child abuse assessment and reporting.
- (ii) Spousal or partner abuse assessment, detection, intervention strategies, and same-gender abuse dynamics.
- (iii) Cultural factors relevant to abuse of partners and family members.
- (iv) Childbirth, child rearing, parenting, and stepparenting.
- (v) Marriage, divorce, and blended families.
- 29 (vi) Long-term care.

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- 30 (vii) End of life and grief.
- 31 (viii) Poverty and deprivation.
- 32 (ix) Financial and social stress.
- 33 (x) Effects of trauma.
- 34 (xi) The psychological, psychotherapeutic, community, and 35 health implications of the matters and life events described in 36 clauses (i) to (x), inclusive.
- 37 (D) Cultural competency and sensitivity, including a familiarity 38 with the racial, cultural, linguistic, and ethnic backgrounds of 39 persons living in California.

SB 1218 -12-

(E) Multicultural development and cross-cultural interaction, including experiences of race, ethnicity, class, spirituality, sexual orientation, gender, and disability, and their incorporation into the psychotherapeutic process.

- (F) An understanding of the effects of socioeconomic status on treatment and available resources.
- (G) An understanding of resilience, including the personal and community qualities that enable persons to cope with adversity, trauma, tragedy, threats, or other stresses.
- (H) Human sexuality, including the study of physiological, psychological, and social cultural variables associated with sexual behavior, gender identity, and the assessment and treatment of psychosexual dysfunction.
- (I) Substance abuse, co-occurring disorders, and addiction, including, but not limited to, instruction in all of the following:
- (i) The definition of substance use disorders, co-occurring disorders, and addiction. For purposes of this subparagraph, "co-occurring disorders" means a mental illness and substance abuse diagnosis occurring simultaneously in an individual.
- (ii) Medical aspects of substance use disorders and co-occurring disorders.
 - (iii) The effects of psychoactive drug use.
- (iv) Current theories of the etiology of substance abuse and addiction.
- (v) The role of persons and systems that support or compound substance abuse and addiction.
- (vi) Major approaches to identification, evaluation, and treatment of substance use disorders, co-occurring disorders, and addiction, including, but not limited to, best practices.
 - (vii) Legal aspects of substance abuse.
- (viii) Populations at risk with regard to substance use disorders and co-occurring disorders.
- (ix) Community resources offering screening, assessment, treatment, and followup for the affected person and family.
- (x) Recognition of substance use disorders, co-occurring disorders, and addiction, and appropriate referral.
 - (xi) The prevention of substance use disorders and addiction.
- (J) California law and professional ethics for marriage and family therapists, including instruction in all of the following areas of study:

__13___ SB 1218

(i) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the scope of practice of marriage and family therapy.

- (ii) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including, but not limited to, family law.
- (iii) The current legal patterns and trends in the mental health professions.
- (iv) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.
- (v) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.
- (vi) Differences in legal and ethical standards for different types of work settings.
 - (vii) Licensing law and licensing process.

- (e) The degree described in subdivision (b) shall, in addition to meeting the requirements of subdivision (d), include instruction in case management, systems of care for the severely mentally ill, public and private services and supports available for the severely mentally ill, community resources for persons with mental illness and for victims of abuse, disaster and trauma response, advocacy for the severely mentally ill, and collaborative treatment. This instruction may be provided either in credit level coursework or through extension programs offered by the degree-granting institution.
- (f) The changes made to law by this section are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended to expand or restrict the scope of practice for marriage and family therapists.
- SEC. 6. Section 4980.37 of the Business and Professions Code is amended to read:
- 4980.37. (a) This section shall apply to applicants for licensure or registration who begin graduate study before August 1, 2012, and complete that study on or before December 31, 2018. Those applicants may alternatively qualify under paragraph (2) of subdivision (a) of Section 4980.36.

SB 1218 —14—

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1 (b) To qualify for a license or registration, applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical 3 4 psychology, counseling psychology, or counseling with an 5 emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or 6 7 university accredited by the Western Association of Schools and 8 Colleges or approved by the Bureau for Private Postsecondary and Vocational Education. The board has the authority to make the final determination as to whether a degree meets all requirements, 10 11 including, but not limited to, course requirements, regardless of 12 accreditation or approval. In order to qualify for licensure pursuant 13 to this section, a doctor's or master's degree program shall be a 14 single, integrated program primarily designed to train marriage 15 and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. This instruction shall include no 16 17 less than 12 semester units or 18 quarter units of coursework in 18 the areas of marriage, family, and child counseling, and marital 19 and family systems approaches to treatment. The coursework shall 20 include all of the following areas: 21

- (1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.
- (2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.
- (3) Developmental issues and life events from infancy to old age and their effect on individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.
 - (4) A variety of approaches to the treatment of children.

The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(c) (1) In addition to the 12 semester or 18 quarter units of coursework specified in subdivision (b), the doctor's or master's degree program shall contain not less than six semester or nine

-15- SB 1218

quarter units of supervised practicum in applied psychotherapeutic technique, assessments, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

- (2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.
- (3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.
- (d) As an alternative to meeting the qualifications specified in subdivision (b), the board shall accept as equivalent degrees those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.
- (e) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program that meets the educational qualifications for licensure or registration under this section shall do all of the following:
- (1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.
- (2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.
- (3) Train students specifically in the application of marriage and family relationship counseling principles and methods.
- (4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.
- (5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.
- (6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems,

SB 1218 -16-

symptoms, and needs of Californians served by marriage and
family therapists.
(7) Prepare students to be familiar with cross-cultural mores

- (7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.
- (f) Educational institutions are encouraged to design the practicum required by this section to include marriage and family therapy experience in low-income and multicultural mental health settings.
- (g) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.
- SEC. 7. Section 4980.38 of the Business and Professions Code is amended to read:
- 4980.38. (a) Each educational institution preparing applicants to qualify for licensure shall notify each of its students by means of its public documents or otherwise in writing that its degree program is designed to meet the requirements of Section 4980.36 or 4980.37, and shall certify to the board that it has so notified its students.
- (b) An applicant for registration or licensure shall submit to the board a certification by the applicant's educational institution that the institution's required curriculum for graduation and any associated coursework completed by the applicant does one of the following:
 - (1) Meets all of the requirements set forth in Section 4980.36.
- (2) Meets all of the requirements set forth in Section 4980.37 and paragraphs (4) and (5) of subdivision (a) of Section 4980.41.
- SEC. 8. Section 4980.39 of the Business and Professions Code is amended to read:
- 4980.39. (a) An applicant for licensure whose education qualifies him or her under Section 4980.37 shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which may include, but is not limited to, the biological, social, and psychological aspects of aging.
- (b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate

__17__ SB 1218

course of study, may, at the discretion of the board, fulfill the requirements of this section.

- (c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.
- (d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.
- (e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.
- SEC. 9. Section 4980.40 of the Business and Professions Code is amended to read:
- 4980.40. To qualify for a license, an applicant shall have all of the following qualifications:
- (a) Meet the educational requirements of Section 4980.36 or both Sections 4980.37 and 4980.41, as applicable.
 - (b) Be at least 18 years of age.

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- (c) Have at least two years of experience that meet the requirements of Section 4980.43.
- (d) Pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.
- (e) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.
- SEC. 10. Section 4980.41 of the Business and Professions Code is amended to read:
- 38 4980.41. (a) An applicant for licensure whose education 39 qualifies him or her under Section 4980.37 shall complete the 40 following coursework or training in order to be eligible to sit for

SB 1218 — 18—

the licensing examinations as specified in subdivision (d) of Section 4980.40:

- (1) A two semester or three quarter unit course in California law and professional ethics for marriage and family therapists, which shall include, but not be limited to, the following areas of study:
- (A) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.
- (B) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including family law.
- (C) The current legal patterns and trends in the mental health profession.
- (D) The psychotherapist-patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.
- (E) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.37.

- (2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.
- (3) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37.
- (4) For persons who began graduate study on or after January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.37.
- (5) For persons who began graduate study during the period commencing on January 1, 1995, and ending on December 31,

—19 — SB 1218

2003, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. For persons who began graduate study on or after January 1, 2004, a master's or doctor's degree qualifying for licensure shall include a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this paragraph may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(6) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychological testing. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.

- (7) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.37.
- (8) The requirements added by paragraphs (6) and (7) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice and are not intended in any way to expand or restrict the scope of practice for marriage and family therapists.
- (b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019, deletes or extends that date.
- 37 SEC. 11. Section 4980.43 of the Business and Professions Code is amended to read:

SB 1218 -20-

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

- (1) A minimum of 3,000 hours completed during a period of at least 104 weeks.
 - (2) Not more than 40 hours in any seven consecutive days.
- (3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.
- (4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:
- (A) Not more than 750 hours of counseling and direct supervisor contact.
- (B) Not more than 250 hours of professional enrichment activities, excluding personal psychotherapy as described in paragraph (2) of subdivision (l).
- (C) Not more than 100 hours of personal psychotherapy as described in paragraph (2) of subdivision (l). The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.
- (5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.
- (6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (c) of Section 4980.37 and subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 shall be exempt from this six-year requirement.
- (7) Not more than a total of 1,250 hours of experience for related professional enrichment activities, as follows:
- (A) Not more than 250 hours of professional enrichment activities, as defined in subdivision (l).
- (B) Not more than 250 hours of experience administering and evaluating psychological tests, writing clinical reports, writing progress notes, or writing process notes.
- (C) Direct supervisor contact.
- 39 (D) Client centered advocacy.
- 40 (E) Personal psychotherapy.

__21__ SB 1218

(8) Not more than 500 hours of experience providing group therapy or group counseling.

- (9) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.
- (10) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.
- (11) Not more than 125 hours of experience providing personal psychotherapy services via telemedicine in accordance with Section 2290.5.
- (b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.
- (1) If employed, an intern shall provide the board with copies of the corresponding W-2 tax forms for each year of experience claimed upon application for licensure.
- (2) If volunteering, an intern shall provide the board with a letter from his or her employer verifying the intern's employment as a volunteer upon application for licensure.
- (c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:
- (1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.
- (2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.
- (3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an

SB 1218 -22-

individual basis or two hours per week of face-to-face contact in a group.

- (4) Direct supervisor contact shall occur within the same week as the hours claimed.
- (5) Direct supervisor contact provided in a group shall be provided in a group of not more than eight supervisees and in segments lasting no less than one continuous hour.
- (6) An intern working in a governmental entity, a school, a college, or a university, or an institution that is both nonprofit and charitable may obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real-time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.
- (7) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.
- (d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:
- (A) Lawfully and regularly provides mental health counseling or psychotherapy.
- (B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
- (C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
- (2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.
- (e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:
- (A) Lawfully and regularly provides mental health counseling or psychotherapy.
- (B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

__ 23 __ SB 1218

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

- (3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.
- (4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.
- (5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.
- (f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.
- (g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.
- (h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.
- (i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.
- (j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total,

SB 1218 — 24—

from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

- (k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.
- (1) For purposes of this chapter, "professional enrichment activities" includes the following:
- (1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor.
- (2) Participation by the applicant in personal psychotherapy which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.
- SEC. 12. Section 4980.44 of the Business and Professions Code is amended to read:
- 4980.44. An unlicensed marriage and family therapist intern employed under this chapter shall comply with the following requirements:
- (a) Possess, at a minimum, a master's degree as specified in Section 4980.36 or 4980.37, as applicable.
- (b) Register with the board prior to performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.
- (c) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, or a licensed

— 25 — SB 1218

physician and surgeon certified in psychiatry by the American 2 Board of Psychiatry and Neurology.

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- SEC. 13. Section 4980.50 of the Business and Professions Code is amended to read:
- 4980.50. (a) Every applicant who meets the educational and experience requirements and applies for a license as a marriage and family therapist shall be examined by the board. The examinations shall be as set forth in subdivision (d) of Section 4980.40. The examinations shall be given at least twice a year at a time and place and under supervision as the board may determine. The board shall examine the candidate with regard to his or her knowledge and professional skills and his or her judgment in the utilization of appropriate techniques and methods.
- (b) The board shall not deny any applicant, who has submitted a complete application for examination, admission to the licensure examinations required by this section if the applicant meets the educational and experience requirements of this chapter, and has not committed any acts or engaged in any conduct that would constitute grounds to deny licensure.
- (c) The board shall not deny any applicant, whose application for licensure is complete, admission to the standard written examination, nor shall the board postpone or delay any applicant's standard written examination or delay informing the candidate of the results of the standard written examination, solely upon the receipt by the board of a complaint alleging acts or conduct that would constitute grounds to deny licensure.
- (d) If an applicant for examination who has passed the standard written examination is the subject of a complaint or is under board investigation for acts or conduct that, if proven to be true, would constitute grounds for the board to deny licensure, the board shall permit the applicant to take the clinical vignette written examination for licensure, but may withhold the results of the examination or notify the applicant that licensure will not be granted pending completion of the investigation.
- (e) Notwithstanding Section 135, the board may deny any applicant who has previously failed either the standard written or clinical vignette written examination permission to retake either examination pending completion of the investigation of any complaints against the applicant. Nothing in this section shall prohibit the board from denying an applicant admission to any

SB 1218 -26-

examination, withholding the results, or refusing to issue a license to any applicant when an accusation or statement of issues has been filed against the applicant pursuant to Sections 11503 and 11504 of the Government Code, respectively, or the applicant has been denied in accordance with subdivision (b) of Section 485.

- (f) Notwithstanding any other provision of law, the board may destroy all examination materials two years following the date of an examination.
- (g) On or after January 1, 2002, no applicant shall be eligible to participate in a clinical vignette written examination if his or her passing score on the standard written examination occurred more than seven years before.
- (h) An applicant who has qualified pursuant to this chapter shall be issued a license as a marriage and family therapist in the form that the board may deem appropriate.
- SEC. 14. Section 4980.54 of the Business and Professions Code is amended to read:
- 4980.54. (a) The Legislature recognizes that the education and experience requirements in this chapter constitute only minimal requirements to assure that an applicant is prepared and qualified to take the licensure examinations as specified in subdivision (d) of Section 4980.40 and, if he or she passes those examinations, to begin practice.
- (b) In order to continuously improve the competence of licensed marriage and family therapists and as a model for all psychotherapeutic professions, the Legislature encourages all licensees to regularly engage in continuing education related to the profession or scope of practice as defined in this chapter.
- (c) Except as provided in subdivision (e), the board shall not renew any license pursuant to this chapter unless the applicant certifies to the board, on a form prescribed by the board, that he or she has completed not less than 36 hours of approved continuing education in or relevant to the field of marriage and family therapy in the preceding two years, as determined by the board.
- (d) The board shall have the right to audit the records of any applicant to verify the completion of the continuing education requirement. Applicants shall maintain records of completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon request.

__ 27 __ SB 1218

(e) The board may establish exceptions from the continuing education requirements of this section for good cause, as defined by the board.

- (f) The continuing education shall be obtained from one of the following sources:
- (1) An accredited school or state-approved school that meets the requirements set forth in Section 4980.36 or 4980.37. Nothing in this paragraph shall be construed as requiring coursework to be offered as part of a regular degree program.
- (2) Other continuing education providers, including, but not limited to, a professional marriage and family therapist association, a licensed health facility, a governmental entity, a continuing education unit of an accredited four-year institution of higher learning, or a mental health professional association, approved by the board.
- (g) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education, as described in paragraphs (1) and (2) of subdivision (f), shall adhere to procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.
- (h) Training, education, and coursework by approved providers shall incorporate one or more of the following:
- (1) Aspects of the discipline that are fundamental to the understanding or the practice of marriage and family therapy.
- (2) Aspects of the discipline of marriage and family therapy in which significant recent developments have occurred.
- (3) Aspects of other disciplines that enhance the understanding or the practice of marriage and family therapy.
- (i) A system of continuing education for licensed marriage and family therapists shall include courses directly related to the diagnosis, assessment, and treatment of the client population being served.
- (j) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The fees related to the administration of this section shall be sufficient to meet, but shall not exceed, the costs of administering the corresponding provisions

SB 1218 -28-

 of this section. For purposes of this subdivision, a provider of continuing education as described in paragraph (1) of subdivision (f) shall be deemed to be an approved provider.

- (k) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.
- SEC. 15. Section 4980.72 is added to the Business and Professions Code, to read:
- 4980.72. (a) This section applies to persons who are licensed outside of California and apply for licensure on or after January 1, 2014.
- (b) The board may issue a license to a person who, at the time of submitting an application for a license pursuant to this chapter, holds a valid license issued by a board of marriage counselor examiners, board of marriage and family therapists, or corresponding authority, of any state or country, if all of the following conditions are satisfied:
- (1) The applicant's education is substantially equivalent, as defined in Section 4980.78. The applicant's degree title need not be identical to that required by Section 4980.36 or 4980.37.
 - (2) The applicant complies with Section 4980.76, if applicable.
- (3) The applicant's supervised experience is substantially equivalent to that required for a license under this chapter. The board shall consider hours of experience obtained outside of California during the six-year period immediately preceding the date the applicant initially obtained the license described above.
- (4) The applicant passes the examinations required to obtain a license under this chapter.
- SEC. 16. Section 4980.74 is added to the Business and Professions Code, to read:
- 4980.74. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2014, and who do not hold a license as described in Section 4980.72.
- (b) The board shall accept education gained while residing outside of California for purposes of satisfying licensure or registration requirements if the education is substantially equivalent, as defined in Section 4980.78, and the applicant complies with Section 4980.76, if applicable. The applicant's

__ 29 __ SB 1218

degree title need not be identical to that required by Section 4980.36 or 4980.37.

- (c) The board shall accept experience gained outside of California for purposes of satisfying licensure or registration requirements if the experience is substantially equivalent to that required by this chapter.
- SEC. 17. Section 4980.76 is added to the Business and Professions Code, to read:
 - 4980.76. An applicant for licensure or registration with a degree obtained from an educational institution outside the United States shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the board deems necessary.
 - SEC. 18. Section 4980.78 is added to the Business and Professions Code, to read:
 - 4980.78. (a) This section applies to persons who apply for licensure or registration on or after January 1, 2014.
 - (b) For purposes of Sections 4980.72 and 4980.74, education is substantially equivalent if all of the following requirements are met:
 - (1) The degree is obtained from a school, college, or university accredited by the Western Association of Schools and Colleges or an essentially equivalent accrediting agency recognized by the United States Department of Education and consists of, at a minimum, 48 semester or 72 quarter units, including, but not limited to, both of the following:
 - (A) Six semester or nine quarter units of practicum, including, but not limited to, a minimum of 150 hours of face-to-face counseling.
 - (B) Twelve semester or 18 quarter units in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment, as specified in subparagraph (A) of paragraph (1) of subdivision (d) of Section 4980.36.
 - (2) The applicant completes any units and course content requirements under subdivision (d) of Section 4980.36 not already completed in his or her education.
- 39 (3) The applicant completes credit level coursework from a 40 degree-granting institution that provides all of the following:

SB 1218 -30-

(A) Instruction regarding the principles of mental health recovery-oriented care and methods of service delivery in recovery model practice environments.

- (B) An understanding of various California cultures and the social and psychological implications of socioeconomic position.
- (C) Structured meeting with various consumers and family members of consumers of mental health services to enhance understanding of their experience of mental illness, treatment, and recovery.
- (D) Instruction in behavioral addiction and co-occurring substance abuse and mental health disorders, as specified in subparagraph (H) of paragraph (2) of subdivision (d) of Section 4980.36.
- (4) The applicant completes a course in California law and professional ethics. The content of the course shall include, but not be limited to, advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, the Health Insurance Portability and Accountability Act, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, therapist disclosures to patients, differences in legal and ethical standards in different types of work settings, and licensing law and licensing process.
- (5) The applicant's degree title need not be identical to that required by subdivision (b) of Section 4980.36.
- SEC. 19. Section 4980.80 of the Business and Professions Code is amended to read:
- 4980.80. (a) This section applies to persons who apply for licensure between January 1, 2009, and December 31, 2013, inclusive.
- (b) The board may issue a license to a person who, at the time of application, has held for at least two years a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of this chapter, the person complies with Section 4980.76, if applicable, and the person successfully completes the

-31 - SB 1218

board administered licensing examinations as specified by subdivision (d) of Section 4980.40 and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

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- (1) (A) An applicant who completed a two semester or three quarter unit course in law and professional ethics for marriage, and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree shall complete an 18-hour course in California law and professional ethics that includes, but is not limited to, the following subjects: advertising, scope of practice, scope of competence, treatment of minors, confidentiality, dangerous patients, psychotherapist-patient privilege, recordkeeping, patient access to records, requirements of the Health Insurance Portability and Accountability Act of 1996, dual relationships, child abuse, elder and dependent adult abuse, online therapy, insurance reimbursement, civil liability, disciplinary actions and unprofessional conduct, ethics complaints and ethical standards, termination of therapy, standards of care, relevant family law, and therapist disclosures to patients.
- (B) An applicant who has not completed a two semester or three quarter unit course in law and professional ethics for marriage and family therapists that included areas of study as specified in Section 4980.41 as part of his or her qualifying degree, shall complete a two semester or three quarter unit course in California law and professional ethics that includes, at minimum, the areas of study specified in Section 4980.41.
- (2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.
- (3) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.
- (4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.
- (5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

SB 1218 -32-

(B) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

- (6) A minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.
- (7) A minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.
- (8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.
- (c) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.
- SEC. 20. Section 4980.90 of the Business and Professions Code is amended to read:
- 4980.90. (a) This section applies to persons who apply for licensure between January 1, 2009, and December 31, 2013, inclusive.
- (b) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter, if the applicant complies with Section 4980.76, if applicable, and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board. The board shall consider hours of experience obtained in another state during the six-year period immediately preceding the applicant's initial licensure by that state as a marriage and family therapist.
- (c) Education gained while residing outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:
- 39 (1) A two semester or three quarter unit course in California 40 law and professional ethics for marriage, family, and child

-33 - SB 1218

1 counselors that shall include areas of study as specified in Section2 4980.41.

- (2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.
- (3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.
- (4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.
- (5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.
- (B) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.
- (6) A minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.
- (7) A minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.
- (8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.
- (d) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant meets both of the following requirements:
- (1) The applicant has been granted a degree in a single integrated program primarily designed to train marriage and family therapists.
- (2) The applicant's education meets the requirements of Section 4980.37. The degree title need not be identical to that required by subdivision (b) of Section 4980.37. If the applicant's degree does not contain the content or the overall units required by Section

SB 1218 — 34 —

1 4980.37, the board may, in its discretion, accept the applicant's education as substantially equivalent if the following criteria are satisfied:

- (A) The applicant's degree contains the required number of practicum units and coursework required in the areas of marriage, family, and child counseling and marital and family systems approaches to treatment as specified in Section 4980.37.
- (B) The applicant remediates his or her specific deficiency by completing the course content and units required by Section 4980.37.
 - (C) The applicant's degree otherwise complies with this section.
- (e) This section shall become inoperative on January 1, 2014, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2014, deletes or extends that date.
- SEC. 21. Section 1010 of the Evidence Code is amended to read:
- 1010. As used in this article, "psychotherapist" means a person who is, or is reasonably believed by the patient to be:
- (a) A person authorized to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.
- (b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.
- (c) A person licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.
- (d) A person who is serving as a school psychologist and holds a credential authorizing that service issued by the state.
- (e) A person licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
- (f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage and family therapist intern who is under the supervision of a licensed marriage and family therapist, a licensed clinical social worker, a licensed

35 SB 1218

psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

- (g) A person registered as an associate clinical social worker who is under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist as required by Section 4996.20 or 4996.21 of the Business and Professions Code.
- (h) A person exempt from the Psychology Licensing Law pursuant to subdivision (d) of Section 2909 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.
- (i) A psychological intern as defined in Section 2911 of the Business and Professions Code who is under the supervision of a licensed psychologist or board certified psychiatrist.
- (j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subparagraph (B) of paragraph (1) of subdivision (d) of Section 4980.36 or subdivision (c) of Section 4980.37 of the Business and Professions Code and is supervised by a licensed psychologist, board certified psychiatrist, a licensed clinical social worker, or a licensed marriage and family therapist.
- (k) A person licensed as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, who possesses a master's degree in psychiatric-mental health nursing and is listed as a psychiatric-mental health nurse by the Board of Registered Nursing.
- (*l*) An advanced practice registered nurse who is certified as a clinical nurse specialist pursuant to Article 9 (commencing with Section 2838) of Chapter 6 of Division 2 of the Business and Professions Code and who participates in expert clinical practice in the specialty of psychiatric-mental health nursing.
- (m) A person rendering mental health treatment or counseling services as authorized pursuant to Section 6924 of the Family Code.
- 37 SEC. 22. Section 6924 of the Family Code is amended to read:
- 38 6924. (a) As used in this section:

SB 1218 -36-

(1) "Mental health treatment or counseling services" means the provision of mental health treatment or counseling on an outpatient basis by any of the following:

- (A) A governmental agency.
- (B) A person or agency having a contract with a governmental agency to provide the services.
- 7 (C) An agency that receives funding from community united 8 funds.
 - (D) A runaway house or crisis resolution center.
 - (E) A professional person, as defined in paragraph (2).
 - (2) "Professional person" means any of the following:
 - (A) A person designated as a mental health professional in Sections 622 to 626, inclusive, of Article 8 of Subchapter 3 of Chapter 1 of Title 9 of the California Code of Regulations.
 - (B) A marriage and family therapist as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
 - (C) A licensed educational psychologist as defined in Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code.
 - (D) A credentialed school psychologist as described in Section 49424 of the Education Code.
 - (E) A clinical psychologist as defined in Section 1316.5 of the Health and Safety Code.
 - (F) The chief administrator of an agency referred to in paragraph (1) or (3).
 - (G) A marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, while working under the supervision of a licensed professional specified in subdivision (g) of Section 4980.03 of the Business and Professions Code.
 - (3) "Residential shelter services" means any of the following:
 - (A) The provision of residential and other support services to minors on a temporary or emergency basis in a facility that services only minors by a governmental agency, a person or agency having a contract with a governmental agency to provide these services, an agency that receives funding from community funds, or a licensed community care facility or crisis resolution center.

-37 - SB 1218

(B) The provision of other support services on a temporary or emergency basis by any professional person as defined in paragraph (2).

- (b) A minor who is 12 years of age or older may consent to mental health treatment or counseling on an outpatient basis, or to residential shelter services, if both of the following requirements are satisfied:
- (1) The minor, in the opinion of the attending professional person, is mature enough to participate intelligently in the outpatient services or residential shelter services.
- (2) The minor (A) would present a danger of serious physical or mental harm to self or to others without the mental health treatment or counseling or residential shelter services, or (B) is the alleged victim of incest or child abuse.
- (c) A professional person offering residential shelter services, whether as an individual or as a representative of an entity specified in paragraph (3) of subdivision (a), shall make his or her best efforts to notify the parent or guardian of the provision of services.
- (d) The mental health treatment or counseling of a minor authorized by this section shall include involvement of the minor's parent or guardian unless, in the opinion of the professional person who is treating or counseling the minor, the involvement would be inappropriate. The professional person who is treating or counseling the minor shall state in the client record whether and when the person attempted to contact the minor's parent or guardian, and whether the attempt to contact was successful or unsuccessful, or the reason why, in the professional person's opinion, it would be inappropriate to contact the minor's parent or guardian.
- (e) The minor's parents or guardian are not liable for payment for mental health treatment or counseling services provided pursuant to this section unless the parent or guardian participates in the mental health treatment or counseling, and then only for services rendered with the participation of the parent or guardian. The minor's parents or guardian are not liable for payment for any residential shelter services provided pursuant to this section unless the parent or guardian consented to the provision of those services.
- (f) This section does not authorize a minor to receive convulsive therapy or psychosurgery as defined in subdivisions (f) and (g) of

SB 1218 -38-

Section 5325 of the Welfare and Institutions Code, or psychotropic
 drugs without the consent of the minor's parent or guardian.

- SEC. 23. Section 6929 of the Family Code is amended to read: 6929. (a) As used in this section:
- (1) "Counseling" means the provision of counseling services by a provider under a contract with the state or a county to provide alcohol or drug abuse counseling services pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code or pursuant to Division 10.5 (commencing with Section 11750) of the Health and Safety Code.
- (2) "Drug or alcohol" includes, but is not limited to, any substance listed in any of the following:
 - (A) Section 380 or 381 of the Penal Code.
- (B) Division 10 (commencing with Section 11000) of the Health and Safety Code.
 - (C) Subdivision (f) of Section 647 of the Penal Code.
- (3) "LAAM" means levoalphacetylmethadol as specified in paragraph (10) of subdivision (c) of Section 11055 of the Health and Safety Code.
- (4) "Professional person" means a physician and surgeon, registered nurse, psychologist, clinical social worker, marriage and family therapist, marriage and family therapist registered intern when appropriately employed and supervised pursuant to Section 4980.43 of the Business and Professions Code, psychological assistant when appropriately employed and supervised pursuant to Section 2913 of the Business and Professions Code, or associate clinical social worker when appropriately employed and supervised pursuant to Section 4996.18 of the Business and Professions Code.
- (b) A minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem.
- (c) The treatment plan of a minor authorized by this section shall include the involvement of the minor's parent or guardian, if appropriate, as determined by the professional person or treatment facility treating the minor. The professional person providing medical care or counseling to a minor shall state in the minor's treatment record whether and when the professional person attempted to contact the minor's parent or guardian, and whether the attempt to contact the parent or guardian was successful or unsuccessful, or the reason why, in the opinion of the professional

-39 - SB 1218

person, it would not be appropriate to contact the minor's parent or guardian.

- (d) The minor's parent or guardian is not liable for payment for any care provided to a minor pursuant to this section, except that if the minor's parent or guardian participates in a counseling program pursuant to this section, the parent or guardian is liable for the cost of the services provided to the minor and the parent or guardian.
- (e) This section does not authorize a minor to receive replacement narcotic abuse treatment, in a program licensed pursuant to Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code, without the consent of the minor's parent or guardian.
- (f) It is the intent of the Legislature that the state shall respect the right of a parent or legal guardian to seek medical care and counseling for a drug- or alcohol-related problem of a minor child when the child does not consent to the medical care and counseling, and nothing in this section shall be construed to restrict or eliminate this right.
- (g) Notwithstanding any other provision of law, in cases where a parent or legal guardian has sought the medical care and counseling for a drug- or alcohol-related problem of a minor child, the physician shall disclose medical information concerning the care to the minor's parent or legal guardian upon his or her request, even if the minor child does not consent to disclosure, without liability for the disclosure.
- SEC. 24. Section 1277 of the Health and Safety Code is amended to read:
- 1277. (a) No license shall be issued by the state department unless it finds that the premises, the management, the bylaws, rules and regulations, the equipment, the staffing, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the health facility is operated in the manner required by this chapter and by the rules and regulations adopted hereunder.
- (b) Notwithstanding any provision of Part 2 (commencing with Section 5600) of Division 5 of, or Division 7 (commencing with Section 7100) of, the Welfare and Institutions Code or any other law to the contrary, except Sections 2072 and 2073 of the Business and Professions Code, the licensure requirements for professional

SB 1218 — 40 —

personnel, including, but not limited to, physicians and surgeons, dentists, podiatrists, psychologists, marriage and family therapists, 3 pharmacists, registered nurses, and clinical social workers in the 4 state and other governmental health facilities licensed by the state 5 department shall not be less than for those professional personnel 6 in health facilities under private ownership. Persons employed as 7 psychologists and clinical social workers, while continuing in their 8 employment in the same class as of January 1, 1979, in the same state or other governmental health facility licensed by the state 10 department, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the 11 12 requirements of this subdivision. Additionally, the requirements 13 of this subdivision may be waived by the state department solely 14 for persons in the professions of psychology, marriage and family 15 therapy or clinical social work who are gaining qualifying experience for licensure in such profession in this state. A waiver 16 17 granted pursuant to this subdivision shall not exceed three years 18 from the date the employment commences in this state in the case 19 of psychologists, or four years from commencement of the employment in this state in the case of marriage and family 20 21 therapists and clinical social workers, at which time licensure shall 22 have been obtained or the employment shall be terminated except 23 that an extension of a waiver of licensure for marriage and family 24 therapists and clinical social workers may be granted for one 25 additional year, based on extenuating circumstances determined 26 by the department pursuant to subdivision (e). For persons 27 employed as psychologists, clinical social workers, or marriage 28 and family therapists less than full time, an extension of a waiver 29 of licensure may be granted for additional years proportional to 30 the extent of part-time employment, as long as the person is 31 employed without interruption in service, but in no case shall the 32 waiver of licensure exceed six years in the case of clinical social 33 workers and marriage and family therapists or five years in the 34 case of psychologists. However, this durational limitation upon 35 waivers shall not apply to active candidates for a doctoral degree 36 in social work, social welfare, or social science, who are enrolled 37 at an accredited university, college, or professional school, but 38 these limitations shall apply following completion of this training. 39 Additionally, this durational limitation upon waivers shall not 40 apply to active candidates for a doctoral degree in marriage and -41 - SB 1218

family therapy who are enrolled at a school, college, or university, specified in subdivision (b) of Section 4980.36 of, or subdivision (b) of Section 4980.37 of, the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this subdivision shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall nevertheless have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the next possible examination, subject to the one-year limit for marriage and family therapists and clinical social workers, and subject to a two-year limit for psychologists.

(c) A special permit shall be issued by the state department when it finds that the staff, both professional and nonprofessional, and the standards of care and services are adequate and appropriate, and that the special services unit is operated in the manner required in this chapter and by the rules and regulations adopted hereunder.

- (d) The state department shall apply the same standards to state and other governmental health facilities that it licenses as it applies to health facilities in private ownership, including standards specifying the level of training and supervision of all unlicensed practitioners. Except for psychologists, the department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (e).
- (e) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivisions (b) and (d), if any of the following circumstances exist:
- (1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a

SB 1218 — 42 —

natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

- (2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.
- (3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.
- SEC. 25. Section 123115 of the Health and Safety Code is amended to read:
- 123115. (a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:
- (1) With respect to which the minor has a right of inspection under Section 123110.
- (2) Where the health care provider determines that access to the patient records requested by the representative would have a detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection or copying under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.
- (b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:
- (1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.
- (2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician

-43- SB 1218

and surgeon, licensed psychologist, licensed marriage and family 1 2 therapist, or licensed clinical social worker, designated by request 3 of the patient. Any marriage and family therapist registered intern, 4 as defined in Chapter 13 (commencing with Section 4980) of 5 Division 2 of the Business and Professions Code, may not inspect 6 the patient's mental health records or obtain copies thereof, except 7 pursuant to the direction or supervision of a licensed professional 8 specified in subdivision (g) of Section 4980.03 of the Business and Professions Code. Prior to providing copies of mental health 10 records to a marriage and family therapist registered intern, a 11 receipt for those records shall be signed by the supervising licensed 12 professional. The licensed physician and surgeon, licensed 13 psychologist, licensed marriage and family therapist, licensed 14 clinical social worker, or marriage and family therapist registered 15 intern to whom the records are provided for inspection or copying 16 shall not permit inspection or copying by the patient. 17

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

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- (4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).
- SEC. 26. Section 5 of this act shall not become operative if Senate Bill 823 of the 2007–08 Regular Session is enacted and becomes effective on or before January 1, 2009, and adds Section 4980.36 to the Business and Professions Code.
- 31 SEC. 27. Section 6 of this act shall not become operative if 32 Senate Bill 823 of the 2007–08 Regular Session is enacted and 33 becomes effective on or before January 1, 2009, and amends 34 Section 4980.37 of the Business and Professions Code.



AMENDED IN ASSEMBLY JUNE 12, 2008 AMENDED IN ASSEMBLY JUNE 5, 2008 AMENDED IN SENATE MAY 5, 2008 AMENDED IN SENATE APRIL 16, 2008

SENATE BILL

No. 1779

Introduced by Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Calderon, Corbett, Denham, Florez, Harman, Simitian, and Yee)

March 13, 2008

An act to amend Sections 128.5, 149, 683, 733, 800, 801, 803, 2089.5, 2096, 2102, 2107, 2135, 2168.4, 2175, 2307, 2335, 2486, 2488, 2570.5, 2570.7, 2570.6, 2760.1, 3503, 3517, 3518, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4161, 4174, 4231, 4301, 4305, 4329, 4330, 4980.03, 4980.30, 4980.43, 4982, 4989.54, 4992.3, 4996.2, 4996.17, 4996.18, and 4996.23 of, to amend and renumber Section 2570.185 of, to add Sections 2169, 2570.36, 4036.5, 4980.04, and 4990.09 to, and to repeal Sections 2172, 2173, 2174, 4981, 4994.1, 4996.20, and 4996.21 of, the Business and Professions Code, to amend Section 8659 of the Government Code, and to amend Sections 11150 and 11165 of the Health and Safety Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1779, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) Under existing law, if, upon investigation, a specified state regulatory agency has probable cause to believe that a person is

-9- SB 1779

various alternative criteria sufficient to satisfy the experience requirement.

This bill would revise the definition of one hour of direct supervisor contact and would delete those various alternative criteria.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no-yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 128.5 of the Business and Professions 2 Code is amended to read:

3 128.5. (a) Notwithstanding any other provision of law, if at 4 the end of any fiscal year, an agency within the Department of 5 Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount that equals or is more 7 than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license 9 or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal 10 11 year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next 12 13 two fiscal years.

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(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Sciences, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

SB 1779 -10-

SEC. 2. Section 149 of the Business and Professions Code is amended to read:

- 149. (a) If, upon investigation, an agency designated in subdivision (e) has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:
 - (1) Cease the unlawful advertising.
- (2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.
- (b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.
- (c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.
- (d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.
- (e) Subdivision (a) shall apply to the following boards, bureaus, committees, commissions, or programs:
- 32 (1) The Bureau of Barbering and Cosmetology.
- 33 (2) The Funeral Directors and Embalmers Program.
- 34 (3) The Veterinary Medical Board.
- 35 (4) The Hearing Aid Dispensers Advisory Commission.
- 36 (5) The Landscape Architects Technical Committee.
- 37 (6) The California Board of Podiatric Medicine.
 - (7) The Respiratory Care Board of California.
- 39 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 40 (9) The Bureau of Security and Investigative Services.

-11- SB 1779

- 1 (10) The Bureau of Electronic and Appliance Repair.
- 2 (11) The Bureau of Automotive Repair.
- 3 (12) The Tax Preparers Program.
- 4 (13) The California Architects Board.
- 5 (14) The Speech-Language Pathology and Audiology Board.
- 6 (15) The Board for Professional Engineers and Land Surveyors.
- 7 (16) The Board of Behavioral Sciences.
- 8 (17) The State Board for Geologists and Geophysicists.
 - (18) The Structural Pest Control Board.
- 10 (19) The Acupuncture Board.

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- 11 (20) The Board of Psychology.
- 12 (21) The California Board of Accountancy.
- 13 (22) The Bureau of Naturopathic Medicine.
 - (23) The Physical Therapy Board of California.
- SEC. 3. Section 683 of the Business and Professions Code is amended to read:
 - 683. (a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.
 - (b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, and the California Board of Occupational Therapy.
- 31 SEC. 4. Section 733 of the Business and Professions Code is amended to read:
 - 733. (a) No licentiate shall obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.
- 39 (b) Notwithstanding any other provision of law, a licentiate 40 shall dispense drugs and devices, as described in subdivision (a)

59 SB 1779

shall be subject to summary suspension or revocation of his or her
license to conduct a pharmacy.

SEC. 54.

- *SEC.* 58. Section 4329 of the Business and Professions Code is amended to read:
- 4329. Any nonpharmacist who takes charge of or acts as supervisor, manager, or pharmacist-in-charge of any pharmacy, or who compounds or dispenses a prescription or furnishes dangerous drugs except as otherwise provided in this chapter, is guilty of a misdemeanor.

SEC. 55

- SEC. 59. Section 4330 of the Business and Professions Code is amended to read:
- 4330. (a) Any person who has obtained a license to conduct a pharmacy, who fails to place in charge of the pharmacy a pharmacist, or any person, who by himself or herself, or by any other person, permits the compounding or dispensing of prescriptions, or the furnishing of dangerous drugs, in his or her pharmacy, except by a pharmacist, or as otherwise provided in this chapter, is guilty of a misdemeanor.
- (b) Any pharmacy owner who commits any act that would subvert or tend to subvert the efforts of the pharmacist-in-charge to comply with the laws governing the operation of the pharmacy is guilty of a misdemeanor.

SEC. 56.

- SEC. 60. Section 4980.03 of the Business and Professions Code is amended to read:
- 4980.03. (a) "Board," as used in this chapter, means the Board of Behavioral Sciences.
- (b) "Intern," as used in this chapter, means an unlicensed person who has earned his or her master's or doctor's degree qualifying him or her for licensure and is registered with the board.
- (c) "Trainee," as used in this chapter, means an unlicensed person who is currently enrolled in a master's or doctor's degree program, as specified in Section 4980.40, that is designed to qualify him or her for licensure under this chapter, and who has completed no less than 12 semester units or 18 quarter units of coursework in any qualifying degree program.
- 39 (d) "Applicant," as used in this chapter, means an unlicensed 40 person who has completed a master's or doctoral degree program,

SB 1779 -60-

as specified in Section 4980.40, and whose application for registration as an intern is pending, or an unlicensed person who has completed the requirements for licensure as specified in this chapter, is no longer registered with the board as an intern, and is currently in the examination process.

- (e) "Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.
- (f) "Experience," as used in this chapter, means experience in interpersonal relationships, psychotherapy, marriage and family therapy, and professional enrichment activities that satisfies the requirement for licensure as a marriage and family therapist pursuant to Section 4980.40.
- (g) "Supervisor," as used in this chapter, means an individual who meets all of the following requirements:
- (1) Has been licensed by a state regulatory agency for at least two years as a marriage and family therapist, licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.
 - (2) Has not provided therapeutic services to the trainee or intern.
- (3) Has a current and valid license that is not under suspension or probation.
- (4) Complies with supervision requirements established by this chapter and by board regulations.
- (h) "Client-centered advocacy," as used in this chapter, includes researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services. SEC. 57.
- SEC. 61. Section 4980.04 is added to the Business and
- 38 Professions Code, to read:
- 4980.04. This chapter shall be known and may be cited as the Marriage and Family—Therapy Therapist Act.

-61- SB 1779

1 SEC. 58.

2 SEC. 62. Section 4980.30 of the Business and Professions Code is amended to read:

4980.30. Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the board for a license, shall pay the license fee required by this chapter, and obtain a license from the board.

SEC. 59.

- SEC. 63. Section 4980.43 of the Business and Professions Code is amended to read:
- 4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:
- (1) A minimum of 3,000 hours completed during a period of at least 104 weeks.
 - (2) Not more than 40 hours in any seven consecutive days.
- (3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.
- (4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:
- (A) Not more than 750 hours of counseling and direct supervisor contact.
- (B) Not more than 250 hours of professional enrichment activities, excluding personal psychotherapy as described in paragraph (2) of subdivision (l).
- (C) Not more than 100 hours of personal psychotherapy as described in paragraph (2) of subdivision (*l*). The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.
- (5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.
- (6) No hours of experience gained more than six years prior to the date the application for examination eligibility was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

SB 1779 -62-

(7) Not more than a total of 1,000 hours of experience for direct supervisor contact and professional enrichment activities.

- (8) Not more than 500 hours of experience providing group therapy or group counseling.
- (9) Not more than 250 hours of postdegree experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.
- (10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.
- (11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.
- (12) Not more than 125 hours of experience providing personal psychotherapy services via telemedicine in accordance with Section 2290.5.
- (b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.
- (c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:
- (1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.
- (2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.
- (3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual

-63- SB 1779

basis or two hours of face-to-face contact in a group of not more than eight persons.

- (4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.
- (d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:
- (A) Lawfully and regularly provides mental health counseling or psychotherapy.
- (B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
- (C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
- (2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.
- (e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:
- (A) Lawfully and regularly provides mental health counseling or psychotherapy.
- (B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.
- (2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.
- (3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.
- (4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee that has satisfied the requirements of subdivision (g) of Section 4980.03.
- The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or

SB 1779 — 64 —

shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

- (5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.
- (f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.
- (g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.
- (h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.
- (i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in their employers' businesses and shall not lease or rent space, pay for furnishings, equipment or supplies, or in any other way pay for the obligations of their employers.
- (j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.
- (k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as

-65 - SB 1779

appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

- (1) For purposes of this chapter, "professional enrichment activities" includes the following:
- (1) Workshops, seminars, training sessions, or conferences directly related to marriage and family therapy attended by the applicant that are approved by the applicant's supervisor.
- (2) Participation by the applicant in personal psychotherapy which includes group, marital or conjoint, family, or individual psychotherapy by an appropriately licensed professional.

SEC. 60.

SEC. 64. Section 4981 of the Business and Professions Code is repealed.

SEC. 61.

- SEC. 65. Section 4982 of the Business and Professions Code is amended to read:
- 4982. The board may deny a license or registration or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:
- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter shall be deemed to be a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when

SB 1779 -66-

the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

- (b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.
- (c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4022, or of any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall deny an application for a registration or license or revoke the license or registration of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing marriage and family therapy services.
- (d) Gross negligence or incompetence in the performance of marriage and family therapy.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.
- (f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.
- (g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.
- (h) Aiding or abetting, or employing, directly or indirectly, any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

-67- SB 1779

(i) Intentionally or recklessly causing physical or emotional harm to any client.

- (j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- (k) Engaging in sexual relations with a client, or a former client within two years following termination of therapy, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a marriage and family therapist.
- (1) Performing, or holding oneself out as being able to perform, or offering to perform, or permitting any trainee or registered intern under supervision to perform, any professional services beyond the scope of the license authorized by this chapter.
- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).
- (p) Advertising in a manner that is false, misleading, or deceptive.
- (q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or

— 68 — SB 1779

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in part on the naivete of the subject, in ways that might invalidate 2 the test or device.

- (r) Any conduct in the supervision of any registered intern or trainee by any licensee that violates this chapter or any rules or regulations adopted by the board.
- (s) Performing or holding oneself out as being able to perform professional services beyond the scope of one's competence, as established by one's education, training, or experience. This subdivision shall not be construed to expand the scope of the license authorized by this chapter.
- (t) Permitting a trainee or registered intern under one's supervision or control to perform, or permitting the trainee or registered intern to hold himself or herself out as competent to perform, professional services beyond the trainee's or registered intern's level of education, training, or experience.
- (u) The violation of any statute or regulation governing the gaining and supervision of experience required by this chapter.
- (v) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (w) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.
- (x) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.
- (y) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.
 - (z) Failure to comply with Section 2290.5.
- (aa) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.
 - SEC. 62.
- SEC. 66. Section 4989.54 of the Business and Professions Code is amended to read:
- 4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:
- (a) Conviction of a crime substantially related to the 40 qualifications, functions and duties of an educational psychologist.

-69 - SB 1779

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

- (2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.
- (3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.
- (4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.
- (b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.
- (c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license. The board shall deny an application for a license or revoke the license of any person, other than one who is licensed as a physician and surgeon, who uses or offers to use drugs in the course of performing educational psychology.
- (d) Advertising in a manner that is false, misleading, or deceptive.
- (e) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

SB 1779 — 70 —

(f) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

- (g) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.
- (h) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.
- (i) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (j) Gross negligence or incompetence in the practice of educational psychology.
- (k) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.
- (1) Intentionally or recklessly causing physical or emotional harm to any client.
- (m) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.
- (p) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been

__71__ SB 1779

received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

- (q) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.
- (r) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.
- (s) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.
- (t) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.
- (u) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.
- (v) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.
- (w) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.
 - (x) Failure to comply with Section 2290.5.
- (y) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

SEC. 63.

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- *SEC.* 67. Section 4990.09 is added to the Business and Professions Code, to read:
- 4990.09. The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee or registrant pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

SB 1779 — 72 —

SEC. 64.

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SEC. 68. Section 4992.3 of the Business and Professions Code is amended to read:

- 4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:
- (a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.
- (b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.
- (c) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022 or any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use

— 73 — SB 1779

impairs the ability of the person applying for or holding a 2 registration or license to conduct with safety to the public the practice authorized by the registration or license. The board shall 3 4 deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use 6 drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or 8 the Osteopathic Act who lawfully prescribes drugs to a patient 10 under his or her care.

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- (d) Gross negligence or incompetence in the performance of clinical social work.
- (e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.
- (f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.
- (g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.
- (h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.
- (i) Intentionally or recklessly causing physical or emotional harm to any client.
- (i) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.
- (k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications,

40 functions, or duties of a clinical social worker. SB 1779 — 74—

(*l*) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

- (m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.
- (n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.
- (o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).
- (p) Advertising in a manner that is false, misleading, or deceptive.
- (q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.
- (r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.
- (s) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.
- (t) Failure to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

__75__ SB 1779

- (u) Failure to comply with the elder and dependent adult abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.
- (v) Willful violation of Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.
 - (w) Failure to comply with Section 2290.5.
- (x) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.
- 10 SEC. 65.

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- 11 SEC. 69. Section 4994.1 of the Business and Professions Code 12 is repealed.
- 13 SEC. 66.
- 14 SEC. 70. Section 4996.2 of the Business and Professions Code 15 is amended to read:
 - 4996.2. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:
 - (a) Is at least 21 years of age.
 - (b) Has received a master's degree from an accredited school of social work.
 - (c) Has had two years of supervised post-master's degree experience, as specified in Section 4996.23.
 - (d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of any crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.
 - (e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.
 - (f) Has completed instruction and training in spousal or partner abuse assessment, detection, and intervention. This requirement applies to an applicant who began graduate training during the period commencing on January 1, 1995, and ending on December 31, 2003. An applicant who began graduate training on or after January 1, 2004, shall complete a minimum of 15 contact hours

SB 1779 — 76—

of coursework in spousal or partner abuse assessment, detection,

- 2 and intervention strategies, including knowledge of community
- 3 resources, cultural factors, and same gender abuse dynamics.
- 4 Coursework required under this subdivision may be satisfactory
- 5 if taken either in fulfillment of other educational requirements for
- 6 licensure or in a separate course. This requirement for coursework
- 7 shall be satisfied by, and the board shall accept in satisfaction of
- 8 the requirement, a certification from the chief academic officer of
- the educational institution from which the applicant graduated that
- the required coursework is included within the institution's requiredcurriculum for graduation.
 - (g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.
 - (h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 67.

- SEC. 71. Section 4996.17 of the Business and Professions Code is amended to read:
- 4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.
- (b) The board may issue a license to any person who, at the time of application, holds a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:
- (1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

__77__ SB 1779

(2) Completion of the following coursework or training in or out of this state:

- (A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.
- (B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.
- (C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.
- (D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.
- (3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.
- (4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.
- (5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.
- (6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.
- (c) The board may issue a license to any person who, at the time of application, has held a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:
- (1) Completion of the following coursework or training in or out of state:

SB 1779 **— 78 —**

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(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

- (B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.
- (C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.
- (D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.
- (2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.
- (3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.
- (4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.
- (5) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.
- (6) The applicant is not subject to denial of licensure under 32 Section 480, 4992.3, 4992.35, or 4992.36.

SEC. 68.

- SEC. 72. Section 4996.18 of the Business and Professions Code 34 35 is amended to read:
 - 4996.18. (a) A person who wishes to be credited with experience toward licensure requirements shall register with the board as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the board.

-79 - SB 1779

(b) An applicant for registration shall satisfy the following requirements:

- (1) Possess a master's degree from an accredited school or department of social work.
- (2) Have committed no crimes or acts constituting grounds for denial of licensure under Section 480.
- (c) An applicant who possesses a master's degree from a school or department of social work that is a candidate for accreditation by the Commission on Accreditation of the Council on Social Work Education shall be eligible, and shall be required, to register as an associate clinical social worker in order to gain experience toward licensure if the applicant has not committed any crimes or acts that constitute grounds for denial of licensure under Section 480. That applicant shall not, however, be eligible for examination until the school or department of social work has received accreditation by the Commission on Accreditation of the Council on Social Work Education.
- (d) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship that undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.
- (e) An applicant who possesses a master's degree from an accredited school or department of social work shall be able to apply experience the applicant obtained during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education toward the licensure requirements, if the experience meets the requirements of Section 4996.23. This subdivision shall apply retroactively to persons who possess a master's degree from an accredited school or department of social work and who obtained experience during the time the accredited school or department was in candidacy status by the Commission on Accreditation of the Council on Social Work Education.
- (f) An applicant for registration or licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a master's of social work degree that is equivalent to a master's degree issued

SB 1779 — 80 —

- 1 from a school or department of social work that is accredited by
- 2 the Commission on Accreditation of the Council on Social Work
- 3 Education. These applicants shall provide the board with a
- 4 comprehensive evaluation of the degree and shall provide any
- other documentation the board deems necessary. The board has the authority to make the final determination as to whether a degree
- 7 meets all requirements, including, but not limited to, course
- 8 requirements regardless of evaluation or accreditation.
- 9 (g) A registrant shall not provide clinical social work services 10 to the public for a fee, monetary or otherwise, except as an 11 employee.
 - (h) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.
- 15 SEC. 69.

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- 16 SEC. 73. Section 4996.20 of the Business and Professions Code is repealed.
- 18 SEC. 70.
- 19 SEC. 74. Section 4996.21 of the Business and Professions Code 20 is repealed.
- 21 SEC. 71.
- 22 SEC. 75. Section 4996.23 of the Business and Professions Code is amended to read:
 - 4996.23. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:
 - (a) All persons registered with the board on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined by a regulation adopted by the board. This experience shall consist of the following:
- 35 (1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.
- 38 (2) A maximum of 1,200 hours in client-centered advocacy, 39 consultation, evaluation, and research.

SB 1779

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

- (4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.
- (5) Experience shall not be credited for more than 40 hours in any week.
- (b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.
- (c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.
- (2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks.
- (3) For purposes of this section, "one hour of direct supervisor contact" means one hour per week of face-to-face contact on an individual basis or two hours of face-to-face contact in a group conducted within the same week as the hours claimed.
- (4) An associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting in which experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week.
- (5) Group supervision shall be provided in a group of not more than eight supervisees and shall be provided in segments lasting no less than one continuous hour.
- (6) An associate clinical social worker working in a governmental entity, a school, college, or university, or an institution that is both nonprofit and charitable may be credited with up to 30 hours of direct supervisor contact, via two-way, real time videoconferencing. The supervisor shall be responsible for ensuring that client confidentiality is upheld.

SB 1779 — 82 —

(7) Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker.

- (d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.
- (e) Experience shall only be gained in a setting that meets both of the following:
- (1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.
- (2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.
- (f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.
- (g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.
- (h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.
- (i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.
- (j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.
- (k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.
 - (1) Associates shall not do the following:
- (1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.
 - (2) Have any proprietary interest in the employer's business.

SB 1779

- (m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.
- (n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

10 SEC. 72.

SEC. 76. Section 8659 of the Government Code is amended to read:

8659. Any physician or surgeon (whether licensed in this state or any other state), hospital, pharmacist, respiratory care practitioner, nurse, or dentist who renders services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained; provided, however, that the immunity herein granted shall not apply in the event of a willful act or omission.

SEC. 73.

SEC. 77. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within the scope of Section 4052.1 or 4052.2 of the Business and Professions Code, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the







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To: Policy and Advocacy Committee Members Date: June 25, 2008

From: Tracy Rhine Telephone: (916) 574-7847

Legislative Analyst

Subject: Rulemaking Update

PENDING REGULATORY PROPOSALS

Title 16, CCR Section 1832.5, Acceptance of Degrees from Approved Institutions

This regulation would permit the Board to recognize applicants for MFT licensure and MFT intern registration who obtain a degree from a BPPVE – approved school between January 1, 2009 and June 30, 2012, as long as the school held an approval to operate as of June 30, 2007. The board approved the proposed text at its meeting on May 30, 2008. The notice of proposed changes in regulation was published in the Office of Administrative Law Notice Register on June 13, 2008. A hearing for public comment relating to the proposed regulation will be held in Sacramento on August 4, 2008.

Title 16, CCR Section 1887.2, Exceptions to Continuing Education Requirements

This regulation sets forth continuing education (CE) exception criteria for MFT and LCSW license renewals. This proposal would amend the language in order to clarify and better facilitate the request for exception from the CE requirement. The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.

<u>Title 16, CCR Sections 1887, 1887.2, 1887.3, and 1887.7, Minor Clean-Up of Continuing Education Regulations</u>

This proposal would make minor clean-up amendments to continuing education regulations. The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.

<u>Title 16, CCR Section 1870, Two-Year Practice Requirement for Supervisors of Associate</u> <u>Clinical Social Workers</u>

This proposal would require supervisors of associate clinical social workers to be licensed for at least two years prior to commencing any supervision, and would make some technical

changes for clarity. The Board approved the originally proposed text at its meeting on May 31, 2007. No further action has been taken due to staff workload considerations.